

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Wm. H. Spencer, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES**

THE NEW YORK CENTRAL RAILROAD—BUFFALO & EAST

DISPUTE (as amended).—"Claim of employees that the three positions designated as General Foremen, one with tour from 8:00 a. m. to 4:30 p. m., rate \$166.67 per month, one with tour from 4:00 p. m. to 12:30 a. m., rate \$177.78, and one with tour from 12:01 to 8:30 a. m., rate \$166.67 per month, at the Parcel Post Station, 29th Street & Tenth Avenue, New York City, be bulletined and assigned under the provisions of the agreement between the parties to employees holding seniority thereunder, and that the employees so assigned to be compensated for any difference in rates accruing subsequent to April 30, 1934."

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that—

The carrier and the employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

As a result of a deadlock, Wm. H. Spencer was called in as Referee to sit with this Division as a member thereof.

JOINT STATEMENT OF FACTS.—In accord with a statement of facts jointly certified by the parties, the Division finds further:

"Effective April 30, 1934, a new U. S. Government postal station was opened at 29th Street and 10th Avenue, New York City, for which the New York Central Railroad Company furnished the force of employees necessary to perform the loading or unloading, handling, and assorting of such parcel post consignments as are received at this station for forwarding. The supervisory part of the force consists of 1 Agent, 1 assistant agent, 3 general foremen (as specified in statement of claim), and 3 assistant foremen."

RESPECTIVE POSITIONS OF PARTIES.—The petitioner contended that the positions in controversy are not those of General Foremen, which are excepted positions, but are those of Foremen, which are included under the Clerks' Agreement. In support of this position, the petitioner cited and relied upon Rules 1 and 47 of an Agreement between the parties, bearing effective date of September 1, 1922. These rules follow:

"**RULE 1. Scope.**—Employees covered by these rules will be divided into two classes.

"**Class 1.**—Clerks as defined in Rule 2 and such employees as ticket sellers or clerks, crew dispatchers, chief callers, freight and baggage tallymen or checkers.

"**Class 2.**—Other office, store, and station employees such as train announcers, gatemen, ushers, baggage and parcel room employees, telephone switchboard operators, elevator operators, operators of office and station equipment devices not requiring clerical ability, watchmen, office boys, janitors, stevedores, coopers, freight handlers, laborers, and others similarly employed in and around stations, warehouses, and storehouses.

"**Exceptions.**—The following positions will be considered personal office force and will not be subject to the rules of this agreement:

"All employees in the offices of the Executive Department, the office of the General Manager, Assistant General Manager, General Counsel, General

Attorney, Traffic Manager, Assistant Traffic Manager, Police Department, Treasurer, Assistant Treasurer, Auditor, Assistant Auditor, and General Superintendent.

"Specific positions in the Accounting, Freight Claim, Marine, Operating, Purchasing, Traffic, and Treasury Departments of the New York Central Railroad, and specific positions in the Grand Central Terminal, which are not subject to the rules of this agreement, are covered by addenda, copies of which are on file with Department Head and with General Chairmen.

"Senior qualified employees will be considered for appointment to excepted positions."

"**RULE 47.** Effective date and duration. The rules and conditions herein set forth constitute an agreement, effective September 1, 1922, and April 1, 1933, and supersede all former agreements, rules, and interpretations thereon.

"These rules will not be changed nor abrogated until after thirty (30) days' notice has been given in writing by either party to the other."

The carrier contended that the positions in question are those of General Foremen and that they are excepted from the operation of the Clerks' Agreement.

CONCLUSIONS OF THE DIVISION.—Upon the whole record and all the evidence, the Division finds that the positions involved in this dispute are those of General Foremen and are not subject to the operation of the Clerks' Agreement.

AWARD

The claim is denied.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Ill., this 6th day of February 1936.