

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYES**
THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

DISPUTE.—

"Claim of Employees, City Ticket Office, Salt Lake City, that positions of Ticket Clerks be bulletined and paid in accordance with Rules 10, 52, 53, 59, 61, and 70 of the current agreement at rate of \$6.27 per day, effective August 9, 1935."

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.

The following statement of facts is jointly certified by the parties and the Third Division so finds:

"Prior to August 9, 1935, one Ticket Clerk was employed in City Ticket Office, Salt Lake City, Utah, at rate of \$160.00 per month to cover all services rendered. August 9th an additional Ticket Clerk was employed at rate of \$150.00 per month to cover all services rendered. Position established August 9th was not bulletined.

"This claim is for the establishment of a daily rate of \$6.27 in lieu of present monthly rates on both positions of Ticket Clerks together with retroactive adjustment on the basis of this daily rate from August 9, 1935."

There is in evidence an agreement between the parties bearing effective date of February 1, 1926, and the following rules thereof have been cited:

"**RULE 10.** New positions or vacancies other than those designated in Groups 2 and 3 of Rule 1, will be promptly bulletined in designated places accessible to all employees affected for a period of eight days in the seniority district in which they occur. Bulletin to show location, title, hours of service, and rate of pay.

"Employees within the district desiring such positions will file their applications with the designated official within that time. Assignment will be made within eight days thereafter and name of successful applicant will be posted for a period of five days where the position was bulletined. Employees of other seniority districts or of other classes will be allowed to file applications and if there are no applicants within the district or if none of such applicants have sufficient fitness or ability, such applications will be considered and appointments made from the best qualified applicant outside of the seniority district, the Management to be the judge.

"For positions coming within the scope of Group 2 of Rule 1, bulletins will be posted in accordance with this rule only at the point or in the office where such new position is created or vacancy occurs.

"**RULE 52.** Except as otherwise provided in these rules, time in excess of eight hours, exclusive of the meal period, on any day will be considered overtime and paid on the actual minute basis at the rate of time and one-half.

"RULE 53. Except as provided in Rule 54, employes notified or called to perform work not continuous with, before or after the regular work period, or on Sunday and following holidays, viz.,

New Year's Day.
Washington's Birthday.
Decoration Day.
Fourth of July.
Labor Day.
Thanksgiving Day.
Christmas.

"shall be allowed a minimum of three (3) hours for two (2) hours' work or less, and if held on duty in excess of two hours, time and one-half will be allowed on the minute basis.

"RULE 59. Work performed on Sunday and the following legal holidays—namely, New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas (provided when any of the above holidays fall on Sunday, the day observed by the State, Nation, or by proclamation shall be considered the holiday), shall be paid at the rate of time and one-half, except that employes necessary to the continuous operation of the carrier and who are regularly assigned to such service will be assigned one regular day off duty in seven, Sunday if possible, and if required to work on such regularly assigned seventh day off duty will be paid at the rate of time and one-half time; when such assigned day off duty is not Sunday, work on Sunday will be paid for at straight time rate.

"RULE 61. Employees covered by Groups (1) and (2), Rule 1, heretofore paid on a monthly, weekly, or hourly basis shall be paid on a daily basis. The conversion to a daily basis of monthly, weekly, or hourly rates shall not operate to establish a rate of pay either more or less favorable than is now in effect.

"Nothing herein shall be construed to permit the reduction of days for the employes covered by the rules below six per week, excepting that this number may be reduced in a week in which holidays occur by the number of such holidays.

"RULE 70. The wages for new positions shall be in conformity with the wages for positions of similar kind or class in the seniority district where created.

"RULE 85. Proper classification of employes and a reasonable definition of the work to be done by each class will be made, but shall not unduly impose uneconomical conditions upon the railroad."

The petitioner states that effective August 9, 1935, a new position of Ticket Clerk was established in the Salt Lake City Ticket Office, rate \$150.00 per month, and that this position was filled without being bulletined; that the assigned hours were 12:00 Noon to 9:00 P. M. week days, and 9:00 A. M. to 6:00 P. M. on Sundays, with one hour for lunch, and contends that the agreement was violated. The petitioner further states that at the time this position was created, there existed in the same office a position of Ticket Clerk, rate \$160.00 per month, and contends that the proper rate for the position created August 9th is \$6.27 per day.

The carrier states that prior to August 9, 1935, there existed in the Salt Lake City Ticket Office one position of Ticket Clerk, rate \$160.00 per month, hours 8:30 A. M. to 5:30 P. M., with one hour for lunch, daily except Sunday; that in addition to his duties as Ticket Clerk, this employe was required at times to relieve the District Passenger Agent in meeting Trains 1, 2, 5, and 6; that all duties of the new position are confined to the City Ticket Office; that the proper rate for the position in question is \$150.00 per month; that the duties of the new position do not warrant a rate of \$160.00 per month, and that there is no justification in converting the monthly rate to a daily rate.

The Division finds that the positions in question are covered by the agreement cited; that prior and subsequent to the effective date of the first agreement, however, a monthly rate to compensate for all services rendered has been in effect, without protest of any nature from the petitioner, and under all of the facts involved, the monthly rates now in effect should continue unless and

until changed by Agreement between the parties. When any vacancy occurs in the future such vacancy should be bulletined.

AWARD

Claim sustained to the extent of finding last above.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: **H. A. JOHNSON**
Secretary

Dated at Chicago, Illinois, this 17th day of November, 1936.