

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

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

STATEMENT OF CLAIM.—

"Request of employees for the rate of \$6.90 per day, retroactive to September 10, 1931, for the position designated by the carrier as Report & Statistical Clerk, and that T. F. Riley be paid the difference between \$5.65 per day and \$6.90 per day from September 10, 1931, until the rate of \$6.90 is applied."

STATEMENT OF FACTS.—Effective August 1930, Superintendents' offices at Kingsville and De Quincy were consolidated with headquarters at Kingsville, Tex. In the consolidation of these offices, the positions of Statistician and Report and Statistical Clerk at De Quincy were abolished and the work transferred to the Kingsville office, employees whose positions were abolished transferring to the Kingsville office and placed in accordance with their seniority. Mr. Riley, after completion of other service at De Quincy, transferred to the position of Report and Statistical Clerk at Kingsville on September 10, 1931. At Kingsville there is a position of Statistician, rate \$6.90 per day, as well as position of Report and Statistical Clerk, rates \$5.65 per day.

An agreement bearing effective date of December 1, 1926, is in evidence, and the following rules thereof have been cited:

"RATING POSITIONS—RULE 65

"Positions (not employees) shall be rated, and the transfer of rates from one position to another shall not be permitted."

"PRESERVATION OF RATES—RULE 66

"Employees temporarily or permanently assigned to higher rated position shall receive the higher rates while occupying such positions; employees temporarily assigned to lower rated positions shall not have their rates reduced."

"A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the position during the time occupied, whether the regular occupant of the position is absent or whether the temporary assignee does the work irrespective of the presence of the regular employee. Assisting a higher rated employee, due to a temporary increase in the volume of work, does not constitute a temporary assignment."

"NEW POSITIONS—RULE 68

"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."

"RATES—RULE 76

"Established positions shall not be discontinued and new ones created under a different title covering relatively the same class or work for the purpose of reducing the rate of pay or evading the application of these rules."

POSITION OF EMPLOYEES.—Employees contend that the position of Report and Statistical Clerk occupied by Mr. Riley at Kingsville is, in fact, that of Statistician and should be paid at the rate of \$6.90 per day; that he performs substantially the same duties as the Statistician.

POSITION OF CARRIER.—Carrier contends that the position in question is, in fact, that of Report and Statistical Clerk, and that the rate of \$5.65 per day is proper.

OPINION OF BOARD.—This being an individual case involving much data as to duties performed on the position in question, it is not deemed necessary to relate all the intricate details, but it is sufficient to state that the evidence does not sustain the claim that the position is that of Statistician and entitled to the rate of \$6.90 per day. Evidence shows, however, that in their conference of March 2, 1936, the parties were in practical accord that this position was, under the agreement, entitled to the rate of \$6.00 per day.

FINDINGS.—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds—

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That in accordance with above opinion and related facts, proper rate of the position is \$6.00 per day, effective March 2, 1936.

AWARD

Claim sustained at rate of \$6.00 per day, effective March 2, 1936.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 9th day of March, 1937.

