

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank M. Swacker, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of employes that positions herein-after described and occupied by Messrs. G. J. Gunning and E. N. Byrd, Office of Auditor Freight Rates and Divisions, shall be rated, bulletined and filled in accordance with rules of the Clerks' Agreement."

EMPLOYES' STATEMENT OF FACTS: "A position exists in the Office of Auditor Freight Rates and Divisions, which has been designated on the Company payrolls as Chief Clerk, carrying rate of pay of \$250.00 per month and assigned to Mr. G. J. Gunning. The duties of the position in question are as follows:

'Supervision of forces engaged in simplification of methods practices in connection with verification of rates and divisions covering overcharge claims and statements of differences issued or received on Forwarded, Received, and Overhead interline freight settlements, General supervision of assignments to and performances of rates clerks (26) assigned to handling of claims and statements of differences. Mr. Gunning reports to Auditor of Freight Rates and Divisions.'

"A position exists in the Office of Auditor, Freight Rates and Divisions, which has been designated on the Company payroll as Special Assistant to Auditor, Freight Rates and Divisions, carrying rate of pay of \$225.00 per month and assigned to Mr. E. N. Byrd. The duties of the position in question are as follows:

'Supervision of forces engaged in verification of rates and application of divisions to abstracts of interline settlements through installation of Chainindex cards, rate and division tables and other like efficiencies; also simplification of methods and practices in connection with Tariff Bureau and subsidiary tariff files. General supervision of Application of Rates and Divisions to current settlements force (20), Re-audit force (20), Division force (9), Typist (2), Waybill Assorters (2), and Tariff Bureau force (5), One Head Clerk reports to Mr. Byrd.

'Mr. Byrd reports to Auditor, Freight Rates and Divisions.'

"Mr. Gunning was chief clerk to the Auditor of Freight Accounts, Southern Railway System, Lines, West, Cincinnati, Ohio at the time the Cincinnati Department was merged with the Southern Railway System, General Office Department in Atlanta, Ga., on July 1, 1932. When the merger was made he

April 1, 1934. Carrier shows below a comparison of these supervisory assignments on August 1, 1931, and on and subsequent to September 1, 1936:

Supervision of	August 1, 1931 Chief Clerk	September 1, 1936 Chief Clerk
Interline Freight Received Audit	Lewis	Pattison
Freight Statistics	"	"
Estimated Revenues	"	"
Application of Freight Rates and Divisions:		
To Local and Interline Waybills	Pinkstaff	Byrd
To Abstracts	"	"
To Statements of Differences	"	"
To Overcharge Claims	"	Gunning
Maintenance Tariff Bureau	"	Byrd
Application of Freight Rates and Divisions:		
To Interline Forwarded Abstracts	Reigner	Gunning
To Statements of Differences	"	"
To Overcharge Claims	"	"
Government Accounts	"	Byrd
Re-Audit Interline Received Settlements	"	Gunning
Re-Audit Interline Forwarded Settlements	Not accomplished	"
Local and Interline Freight Adjustment	Robey	Santry
Interline Freight Forwarded Audit	"	"
Check Overhead Passing Reports	"	"
Preparation Special Statements	"	"
Re-audit Agency Adjustment	"	"

"It will be noted from the above that the present assignments of Chief Clerks Pattison and Santry in the Clerical Section are identical to those in effect for Chief Clerks Lewis and Robey on August 1, 1931. Further, that present assignments to Chief Clerks Gunning and Byrd are the same as those in effect for Chief Clerks Pinkstaff and Riegner on August 1, 1931, with the exception that supervision over Government Accounts has been transferred from one position to the other, and the supervision of the handling of overcharge claims, previously divided between the two positions, has been consolidated.

"From all of the above, it will be obvious that there was no violation of Rule 20-(e) of the clerks' agreement, as alleged by the employes, because no positions were discontinued and new ones created under a different title covering relatively the same class of work either for the purpose of reducing the rate of pay, evading the application of the rules or for any other purpose. To the contrary, it is apparent that during the entire period of time involved in this dispute the assignments of the supervisory employes in the offices of the Auditor of Freight Accounts and the Auditor of Freight Rates and Divisions have been such that there was no justification whatever for the complaint."

OPINION OF BOARD: The positions occupied by Messrs. G. J. Gunning and E. N. Byrd in the office of Auditor of Freight Rates and Divisions at the present time are in fact those of Chief Clerks.

There has not occurred any increase in the number of excepted positions as a result of the transfers of payroll authorities and changes in title. On the contrary there was a decrease of one excepted position by the changes effective Jan. 1, 1935, (which occasioned this complaint) and a further decrease of two more effective Sept. 1, 1936, (subsequent to the filing of the complaint).

The work these men are now doing is work which has for years been performed by excepted employes.

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 employes involved in this dispute are respectively carrier and employes 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 the evidence fails to sustain the complaint.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 15th day of March, 1938.