

**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**

**THE CHICAGO, ROCK ISLAND AND PACIFIC  
RAILWAY COMPANY**

(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

**STATEMENT OF CLAIM:** "Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes on the Chicago, Rock Island & Pacific Railway for the restoration, effective July 13, 1936, of position of Night Refrigerator Inspector, rate \$157.00, Herington, Kansas, yard, and the reinstatement, effective September 1, 1936, of position of Day Refrigerator Inspector, rate \$172.00, Herington, Kansas, yard, also claim for reimbursement of monetary loss sustained by any employes due to discontinuing these positions of Refrigerator Inspector."

**EMPLOYES' STATEMENT OF FACTS:** "For a number of years prior to July 13, 1936, there was maintained at Herington yard two refrigerator inspectors, rates of pay and assigned hours as follows:

\$172—7. A. M. to 7. P. M.  
\$157—7 P. M. to 7. A. M.

Their duties consisted of inspecting all perishable loads to see that proper refrigeration and ventilation maintained through Herington terminal, making 100 Reports, keeping book record of all perishable moving through Herington, supervising icing any cars requiring ice and proper application of heaters.

"On July 13, 1936, the \$157 position was discontinued, and on September 1, 1936, the \$172 position was discontinued, and the work distributed among and is being performed by the six yard clerks, depending upon arrival time of perishable loads requiring this service, whose assignments and rates of pay are as follows:

1st trick eastbound yard clerk,	6:30 A. M. to	2:30 P. M.—\$127
1st trick southbound yard clerk,	8 A. M. to	4 P. M.—\$127
2nd trick eastbound yard clerk,	4 P. M. to	12 Mid. —\$117
2nd trick southbound yard clerk,	3:30 P. M. to	11:30 P. M.—\$117
3rd trick eastbound yard clerk,	12:01 A. M. to	8 A. M.—\$117
3rd trick southbound yard clerk,	12:01 A. M. to	8 A. M.—\$117"

**POSITION OF EMPLOYES:** "Mediation agreement appearing on Page 41 of Agreement governing hours of service and working conditions, as revised and effective January 1, 1931, reads as follows:

"To require reinstatement of the positions of Refrigerator Inspector at Herington, Kansas, would only serve to burden the carrier with an unnecessary expense; and since the maintenance of such positions is not obligatory under the clerical schedule, nor has the schedule been violated in any way because of discontinuance of these Refrigerator Inspectors, the claim of the employees should be declined."

**OPINION OF BOARD:** This is another of the series of cases referred to in Award No. 607.

It is abundantly proved in the record of this case that the carrier violated Rule 69 and Joint Interpretation thereto when it arbitrarily reassigned, without conference, work of Refrigerator Inspectors to Yard Clerks and other employees at Herington, Kansas; that the carrier violated the Mediation Agreement covering positions of Refrigerator and Icing Inspectors when it assigned work of employees in that system seniority district to employees holding seniority rights under Rule 5, and that it violated Rule 33 in consolidating seniority districts or parts thereof without regard to the rights or the duties of the employees involved.

The carrier, therefore, should restore the positions in question, and if conditions warrant the rearrangement of forces and the reassigning of work, it may proceed under the provisions of the agreement between the parties.

**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 the carrier violated Rules 5, 33, 69 and Joint Interpretation to the latter, of the current agreement, and the Mediation Agreement of December 5, 1930.

#### AWARD

Claim sustained for restoration of positions and reparation to affected employees for wage losses sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 18th day of April, 1938.