

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 CO.

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

STATEMENT OF CLAIM: "Claim of the Rock Island System Board of Adjustment, Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, on the Chicago, Rock Island and Pacific Railway, in behalf of Claude O. Bradford, yard clerk, rate \$146.20 per month, St. Louis, Mo., for the payment of an additional five (5) hours at pro rata rate on each of the following days (Sundays):

March 27, 1938	April 24, 1938
April 3, 1938	May 1, 1938
April 10, 1938	May 15, 1938
April 17, 1938	May 22, 1938"

STATEMENT OF FACTS: The following statement of facts was jointly certified by the parties: "Position of yard clerk (old), rate \$136.00 (new rate, \$146.20), assigned hours 2:30 P. M. to 11:00 P. M., at St. Louis, Mo., has been worked on a 7-day assignment for several years. On vacancy bulletin No. 35, dated Kansas City, Mo. August 4th, 1937, this position was advertised as vacant, as follows:

'St. Louis, Mo.—Yard Clerk, Rate \$136 per month, hours 2:30 P. M. to 11:00 P. M. Daily except Sundays and holidays. Permanent.'

On assignment bulletin No. 36, dated Kansas City, Mo. August 11th, 1937, the following award was made:

'St. Louis, Mo.—Yard Clerk.

'Bidders —R. W. Long
Edw. J. Emo

Samuel A. Morgan
Robert L. Wheeler

'Awarded—Robert L. Wheeler.'

On bulletin No. 40, dated Kansas City, Mo. September 7th, 1937, correction was made in original bulletin No. 35 of August 4th, 1937, bulletin reading as follows:

'Position now vacant for which bids will be received in this office until 12:00 Noon, Tuesday, September 14, 1937:

"Applying Rule 57 to the instant case, we find that

- (a) Bradford could be assigned, notified or called to work Sunday, his relief day for a less number of hours than his week day assignment. He was notified each time his services were required (see statement of facts). It would have been permissible to have 'assigned' Mr. Bradford to report at a certain time each Sunday under Rule 57.
- (b) Bradford could be worked on Sunday a less number of hours than constituted a day's work within the limits of his regular week day assignment, which was 2:30 P. M. to 11:00 P. M. with a thirty minute lunch period from 8:00 to 8:30 P. M. The calls to which he responded on Sunday were within the hourly limits of his week day assigned hours, that is, between 2:30 P. M. and 11:00 P. M. (See statement of facts). Bradford would be entitled to time and one-half rate for all time worked, with a minimum of two hours' time at time and one-half. Bradford was worked on Sunday for a less number of hours than his total week day assigned hours, and was paid time and one-half for all time worked, with a minimum of two hours at time and one-half.

"Mr. Bradford's assignment of seven days per week was properly reduced to six days per week and Mr. Bradford remained on the six day assignment under an agreed to interpretation, he was properly called and paid under the provisions of Rule 57, and there is no contract basis on which the employes can sustain the contention they are now making."

There is in evidence an agreement between the parties bearing effective date of January 1, 1931.

OPINION OF BOARD: Under Rule 54 and the joint interpretation thereof dated February 11, 1931, and Rule 57, it would appear that the practice herein followed is permissible.

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

No violation of the rules is shown.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Ill., this 2nd day of August, 1939.