

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dozier A. DeVane, Referee

PARTIES TO DISPUTE:

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

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

(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 Employes, on the Chicago, Rock Island and Pacific Railway for adjustment in compensation of ticket clerks employed Des Moines, Iowa, ticket office, as follows:

"Payment on basis of time and one-half pro rata rate for work performed on regularly assigned days of rest for:

B. A. Mendenhall,	Fridays,	December 3rd, 10th, 17th, 24th and 31st, 1937; January 7th, 1938.
H. L. Hickman,	Sundays,	December 5th, 12th, 19th and 26th, 1937; January 2nd, 1938.
Lafe Harmon,	Tuesdays,	December 7th, 14th, 21st and 28th, 1937; January 4th, 1938.
H. B. Wandling,	Saturdays,	December 4th, 11th and 18th, 1937; January 8th, 1938 (December 25th and January 1st, Christmas and New Year's Days not involved, Schedule allowing time and one-half for holidays.)
H. M. Dunn,	Thursdays,	December 2nd, 9th, 16th, 23rd and 30th, 1937; January 6th, 1938."

EMPLOYES' STATEMENT OF FACTS: "Working Rules Agreement effective January 1st, 1931, contains the following rules:

'RULE 13. EXTRA BOARDS. (a) When it is mutually agreed, an extra board will be maintained, and positions on extra board shall be bulletined as per Rules 8 or 9, bulletin to show office, terminal or territory covered; rate and hours to be shown on bulletin as "various, as per positions filled."

'(b) New employes assigned to extra board shall hold seniority as provided in Rule 3 and interpretation thereof.

"The services of the ticket clerks were required for seven days a week. Normally, in line with Rule 53, each employe in the office was given a rest day. The time came when there was no one to man the relief position. The carrier was entirely agreeable to continuing the six-day assignments by having a relief man, providing some competent employe could be located to relieve the regular man. The carrier did not feel it was warranted in incurring the additional penalty of one and one-half time because there was no employe competent to perform the work, particularly so when the rules negotiated between the carrier and its employes provided the carrier was entitled to have the work of the ticket office performed at pro rata time. It will be noted that Rule 53 provides for a rest day

'so far as practicable, consistent with the requirements of the service. . . .'

"There was no violation of the spirit, the intent or the accepted application of the clerks' schedule in this case, and the claim of the employes should be declined."

There is in evidence an agreement between the parties bearing effective date of January 1, 1931, containing Rule Nos. 13, 53, and 54, quoted by petitioner.

OPINION OF BOARD: The same general question between the same parties and involving the same rules was before this Board in Docket CL-977, Award 930. In that case the Board said:

"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."

That award is considered controlling in this case and for that reason the claim will be denied.

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 no violation of the agreement is shown.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of September, 1939.