

Award No. 1055

Docket No. CL-1187

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

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

WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim of the System Board of Adjustment of the Brotherhood of Railway Clerks on The Western Pacific Railroad Company that the position designated as Report Clerk in Western Division Clerks' Circular No. 38-37 of May 5, 1937, rate \$5.07 per day (\$5.47 since Aug. 1, 1937) should be rated at \$5.87 per day (\$6.27 since August 1, 1937) and that any employe filling this position be paid the difference between what he has earned and what he would have earned had he been paid at the rate of \$5.87 per day (\$6.27 since August 1, 1937) for all time worked on the position."

EMPLOYEES' STATEMENT OF FACTS: "When the rate of \$5.07 per day was agreed upon for the position of Report Clerk the duties were as follows:

'Prepares the 800 report for Mr. Bruen, Mr. Quigley and Mr. DeGraff, which report reflects train movements and which is used by Mr. DeGraff for the making of distribution of fuel oil consumption. Prepares the engine hours report for the Superintendent of Motive Power. Makes analysis and statistical report for the Division Superintendent.'

"This position was abolished in 1932.

"Our investigation develops the fact that the duties required to be performed by the incumbent of the position now designated as Report Clerk are as follows:

'Handles Social Security for all departments on Western Division. Handles matters in connection with Retirement Board Annuities. Handles correspondence in connection with State Unemployment insurance. Trace location of employes and check their earnings. Eight to nine days per month inserting various deductions and balancing Roadway payrolls. All spare time is consumed in filling out SS.1 forms for Roadway Dept.'

"Rule 9 of the Clerks' Agreement reads as follows:

'Rule 9. 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.'"

POSITION OF EMPLOYEES: "An examination of the Statement of Facts reveals no similarity between the duties of the position of Report Clerk when the rate of \$5.07 was set and the duties now required to be performed.

of the duties involved in this dispute are performed by such general clerk on such other seniority district. Claim was declined by Carrier."

POSITION OF CARRIER: "Incident to an increase in wages effective January 1, 1927, all inequalities in rates of pay and classification of positions were adjusted. At that time there was in effect on the Western Division a position of report clerk, which, in addition to involving minor duties such as the copy work of transcribing the train sheet onto a form for the use of various departments, included the preparation of statistical reports and the making of an analysis of operations on the Western Division for the personal use of Division Superintendent in the management of the division. Because of the latter important duties the rate of \$5.07 per day was applied to the position of report clerk instead of \$4.95 which was the going rate for stenographers, comptometer operators, copyists, roadmasters' clerks, etc. Subsequently the preparation of statistical report and analyses of operations was taken over by Carrier's General Auditor which so greatly reduced the work of report clerk that the position was abolished. When the detail incident to compliance with the Unemployment Insurance and Retirement Acts became so voluminous that the current force in Superintendent's office was unable to take care of it currently, Carrier's representative gave careful consideration to all of the duties to be performed by an additional clerk and could find nothing to indicate that any of the duties to be performed by the additional clerk were of any higher classification than those normally required of a stenographer-comptometer operator or roadmaster's clerk, but in the desire to be entirely fair, Carrier re-established the position of report clerk at rate of \$5.07 per day instead of creating a new position at \$4.95 per day.

"While Carrier feels that Rule No. 9 is explicit and that employees are entirely out of line in citing a position in another seniority district as the basis for rate of pay of this position, Carrier desires to inform the Board that the position relied upon by the employees is in Carrier's superintendent's office at Elko, Nevada. The cost of living at Elko is higher than at Sacramento and the employees have always contended for higher rates of pay for positions in superintendent's office at Elko than for identical positions in superintendent's office at Sacramento. In addition, the rate of \$5.87 was not established for the position of general clerk at Elko because of the duties incident to the Unemployment Insurance and Retirement Acts, but because of work of a higher classification.

"Carrier contends that the wages for position of report clerk are in conformity with the wages for positions involving work of comparable kind or class in seniority district of the Western Division and that the wages for a position in another seniority district (Eastern Division in this case) have no bearing whatever on this dispute, therefore, there is no basis under the schedule or in equity for this claim."

OPINION OF BOARD: The parties are in dispute on the question of whether or not the duties now being performed on the position designated as Report Clerk are of greater importance and responsibility than those for which the present rate of pay was established.

The circumstances entering into the establishment of the rate for the new position and the differences between the parties in respect thereto do not sufficiently appear in the record. In the opinion of the Board, the question can be reconciled by a more adequate survey of the duties involved in the establishment of the rate for the new position, and based thereupon, a rate then be established that would be satisfactory.

The case is remanded and if not thus disposed of it may be resubmitted to this Board.

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 employe involved in this dispute are respectively carrier and employe 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 case be remanded in accordance with Opinion.

AWARD

Claim remanded in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 9th day of April, 1940.