

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Benjamin C. Hilliard, Referee

PARTIES TO DISPUTE:

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

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood in behalf of E. C. Harris that position which he occupied in the Seattle freight office entitled 'Assistant Chief Clerk' at a rate of \$7.00 per day should be entitled 'Chief Clerk' at a rate of \$7.59 per day, effective March 24, 1938."

EMPLOYEES' STATEMENT OF FACTS: "When the Wage Agreement, effective February 1, 1928, was negotiated, there existed in the Northern Pacific freight office at Seattle, a position designated as Chief Clerk, rate after 1928 increase \$7.19 per day, the duties of which were as follows:

'Hours of service 8:00 A. M. to 5:00 P. M. Supervise employes in Car Department, handle diversions; receive car orders from shippers and handle with yard force; make diversion reports; handle inbound waybills and distribute same to employes in the office; handle I.T.'s on In Bond cars; handle orders for perishable loads on team tracks; take care of Car Department correspondence and order the icing of refrigerator cars.'

"A position of Assistant Chief Clerk was also maintained, rate after increase of February 1, 1928, \$6.60 per day. The duties of the occupant of this position were:

'Hours of service 9:00 A. M. to 6:00 P. M. Handle car orders; check interchange reports; check carbon copy of switch orders against records; make carload passing reports; make report of cars handled in interchange at Seattle and sign bills of lading.'

"On January 10, 1933, the position of Chief Clerk was abolished and the work distributed, part of it going to the Assistant Chief Clerk. On March 24, 1938, further changes were made in the distribution of work, after which the duties of the Assistant Chief Clerk were:

'Supervise employes in Car Department; handle diversions; receive car orders from shippers and handle with yard force; make diversion reports; handle inbound waybills and distribute same to employes in the office; handle I.T.'s on In Bond cars; handle orders for perishable loads on team track; and take care of Car Department correspondence.'

"Claim was filed by Mr. Harris on April 2, 1938, that he was performing all of the work formerly assigned to the Chief Clerk and that he should be paid \$7.59 per day, all rates of pay having been increased forty cents per day, effective August 1, 1937."

OPINION OF BOARD: The record discloses that the title and rate of pay of Chief Clerk was transferred to the car desk section in 1918, whence there was continuance of attachment until 1933—some fifteen years. It is equally clear that from 1921 to 1933, two positions, Chief Clerk and Assistant Chief Clerk, attached to the car desk section, but in January of the latter year the position of Chief Clerk was discontinued and the work attaching thereto was distributed, a portion thereof to the Assistant Chief Clerk. March 24, 1938, as the result of redistribution of the work, substantially all duties formerly devolving on the Chief Clerk were assigned to the Assistant Chief Clerk, but the title of Chief Clerk was not restored, nor was the rate of pay made to correspond with that paid the Chief Clerk pursuant to the controlling working agreement. The question is, Does identity of duties performed by the Chief Clerk while an employe so designated discharge them, connote that when performed by an employe designated otherwise, for example, Assistant Chief Clerk, as here, a like rate of pay attaches? The working agreement considered, we are disposed to answer affirmatively. See rule 88, and Awards Nos. 294, 751 and 932.

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 duties and responsibilities in the Seattle freight office formerly assigned to and performed by an employe classified as Chief Clerk, now, and since March 24, 1938, have been, discharged by an employe designated as Assistant Chief Clerk, and that the rate of pay, \$7.59 per day, attaches to the duties and responsibilities rather than to the title of the employe engaged therein.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of December, 1940.