

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Herbert B. Rudolph, 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 and Pacific Railway, in behalf of Mr. F. B. Owen and Mr. R. C. Campbell for adjustment in rate of pay from \$175.20 to \$180.20 per month, effective July 6th, 1938, account failure of the carrier to comply with the provisions of Rule 69."

EMPLOYES' STATEMENT OF FACTS: "In the office of Auditor of Disbursements, General Accounting Offices, Chicago, Ill., there are six (6) positions of Accounting & Statistical Clerk, assigned monthly rate \$180.20, and two (2) positions of Accounting & Statistical Clerk, assigned rate of pay \$175.20 per month.

"Prior to July 6th, 1938, there was an additional position in this department with a title of Voucher Clerk with an assigned monthly salary of \$160.20.

"On July 6th, 1938, position of Voucher Clerk, rate \$160.20 per month, was discontinued and the work rearranged in the Accounting & Statistical Department so as to absorb the work formerly on the position of Voucher Clerk. This work was arranged in the department so as to require the eight remaining positions, six positions with a monthly salary of \$180.20, and two positions with a monthly rate of \$175.20 assigned to Messrs. Owen and Campbell, to perform approximately identical work. The rates of pay, however, on positions occupied by Messrs. Owen and Campbell remained at \$175.20."

POSITION OF EMPLOYES: "The Employes contend the provisions of Rule 69 were not complied with when the carrier failed and refused to adjust the rates of pay on the positions occupied by Messrs. Owen and Campbell from \$175.20 to \$180.20 per month effective July 6th, 1938. It is admitted by the carrier in a joint statement of facts dated March 24th, 1939, that the eight positions in the Accounting & Statistical Department are performing approximately identical work. We, therefore, ask that the rates of pay on these two positions be adjusted in line with the provisions of Rule 69, that is, increased from \$175.20 to \$180.20 per month."

CARRIER'S STATEMENT OF FACTS: "There are six positions of accounting and statistical clerks in the office of Auditor Disbursements, General

"The carrier insists that Rule 69 has not been violated in the instant case and that the claim should be denied by the Board because:

- "1. The rate of \$175.20 per month applying to the positions held by Messrs. Owen and Campbell was established through negotiations and agreement with the Clerks' organization
- "2. The status of the positions held by Messrs. Owen and Campbell as to the work performed in relation to the six other similar positions carrying a rate of \$180.20 has not changed since the carrier and employes agreed to established rates of pay effective, June 22, 1936.
- "3. The discontinuance of the position of voucher clerk, monthly rate \$160.20, effective July 6, 1938, did not in any way change the basic principle for the differential in rates of pay between the two positions of Messrs. Owen and Campbell and the six other similar positions which differential was agreed to by the employes effective June 22, 1936.
- "4. The absorption of the small amount of remaining work from the lower rated position of voucher clerk by the eight positions of accounting and statistical clerks effective July 6, 1938 does not justify singling out the two positions held by Messrs. Owen and Campbell for an increase in pay amounting to \$5.00 per month each for the express purpose of eliminating the \$5.00 per month differential in rates of pay between their positions and the six other similar positions which differential was theretofore agreed to by the Clerks' organization.
- "5. It is clearly apparent that the allegation of the employes that Rule 69 was violated is only a device to secure an increase of \$5.00 per month in the pay of Messrs. Owen and Campbell because there is no evidence to support an adjustment in their rates of pay under the provisions of Rule 69."

OPINION OF BOARD: There are eight positions of Accounting and Statistical Clerk in the offices of Auditor Disbursements, General accounting offices, Chicago. Through negotiation and agreement six of these positions carry a monthly rate of pay of \$180.20, and two carry a monthly rate of \$175.20. The present claimants occupy the two lower paid positions.

These rates of pay having been the subject of agreement, there is no authority vested in this Board to increase them, unless under the terms of the agreement the claimants are entitled to an increase. The employes rely upon Rule 69, which provides:

"When there is a sufficient increase or decrease in duties and responsibilities of a position or change in the character of the service required, the compensation for that position will be properly adjusted, but established positions will not be discontinued and new ones created under different titles covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of these rules."

The only showing of an increase in the duties of these two positions is when work of the office was rearranged with the discontinuance of a Voucher Clerk, a lower rated position, on July 6, 1939. With the discontinuance of this position twenty hours of work per month were added to the eight positions of Accounting and Statistical Clerk, two of which positions are occupied by Claimants. There is no claim that claimants were assigned any more of this work than the other six positions. Distributing these twenty hours among these eight positions, would give each position an additional two and one-half hours work each month. We are satisfied that this slight increase in work is not sufficient to require an adjustment in compensation under Rule 69.

The record clearly indicates that the real purpose of this claim is to obtain a rate of pay for the two positions held by claimants equal to the other six positions of a similar nature. Quite obviously the Board has no power to change the agreement the parties themselves have made.

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 there is shown no violation of the existing agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1940.