

Award No. 1383

Docket No. CL-1225

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Richard F. Mitchell, Referee

PARTIES TO DISPUTE:

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

**MISSOURI PACIFIC RAILROAD COMPANY
(Guy A. Thompson, Trustee)**

STATEMENT OF CLAIM: "Claim of the System Board of Adjustment of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement;

"(1) When effective on May 29, 1939, without conference, negotiation, or agreement, it removed the work incident to that of a paymaster; that is the issuing of pay checks to the night forces at North Little Rock shops, from the scope and operation of the Clerks' Agreement and assigned said work to the occupant of an excepted position, namely Chief Clerk to the Shop Superintendent,

"(2) That General Foreman W. W. Reeder shall be compensated for a 'Call' two (2) hours at punitive rate \$1.3875, for each semi-monthly pay period beginning with May 29, 1939, until the work is restored to the scope and operation of the agreement."

There is in evidence an agreement between the parties bearing effective date of August 1, 1926.

EMPLOYEES' STATEMENT OF FACTS: "The Agreement between the Missouri Pacific Railroad and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees dated August 1, 1926, lists in the Supply Department as an 'excepted' position at North Little Rock, Arkansas, the position of General Foreman.

"On or about June 30, 1932 the Missouri Pacific paymaster discontinued the prior established arrangement of going to North Little Rock to handle the work of semi-monthly paying (issuing of pay checks) to the employees and concurrent with such discontinuation or change, the General Foreman Mr. W. W. Reeder was designated as the individual to perform the work of paymaster and issue pay checks to the night shop employees, which work was generally performed between the hours of seven (7) and nine (9) o'clock P. M., which arrangement continued in effect until and inclusive of the semi-monthly pay day on May 13, 1939.

"Effective April 1, 1939, the Clerks' Organization entered into memorandum of agreement with the Carrier which had for its effect among other things the conversion of the position of General Foreman at North Little Rock, Arkansas, occupied by Mr. W. W. Reeder, from an 'excepted' position to a scheduled position and subject to all of the Rules of the Clerks' Agree-

"The Carrier feels there is no rule or practice with our Clerical Employees that would sustain their contentions in this case and request your Honorable Board to deny their claim."

OPINION OF BOARD: The facts essential to the disposition of this dispute can be summarized briefly. Either in 1932 or 1933 the Missouri Pacific paymaster discontinued the prior established arrangement of going to North Little Rock, Arkansas to handle the work of semi-monthly paying the employees. The manner of payment was by delivering pay checks which had already been made out. The General Foreman, Mr. W. W. Reeder, was designated as the individual to perform the work of paymaster. Under the working agreement employees were to be paid during the regular working hours semi-monthly, and Mr. Reeder delivered the checks to the night shop employees between the hours of 7:00 and 9:00 o'clock, P. M. Prior to April 1, 1939 the position of General Foreman, Purchasing and Supply Department, North Little Rock, Arkansas (occupied by Mr. Reeder) was an "excepted" position. After negotiations the employees and carrier mutually agreed, effective April 1, 1939, to place under the Scope of the Clerks' Agreement the position of General Foreman at North Little Rock, Arkansas. Shortly thereafter Reeder was relieved of the duties of paymaster.

This Board has repeatedly held that Carriers cannot arbitrarily remove work from the Scope of the current Agreement and assign it to employees occupying excepted positions. Such a prerogative would be destructive of the Agreement. See Awards Nos. 631, 637, 751, 753, 1209, 1295 and 1300. The record in this case shows that the position of paymaster was not part of the duties of the General Foreman at North Little Rock, Arkansas. That Reeder was assigned as paymaster. That prior to entering into the Agreement Reeder was paid a monthly salary, while under the agreement he is paid a daily wage which is at the same rate as his monthly pay had been. He has designated hours which do not include the hours at night, at which time payment was made to the night employees. The work of acting as paymaster was separate work and was not considered in the negotiations leading up to the inclusion of the position of General Foreman, North Little Rock, Arkansas into the Clerks' Agreement, and relieving Reeder of the paymaster duties did not violate the Clerks' Agreement.

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 record does not sustain the claim of the Petitioners.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 16th day of April, 1941.