

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 Employes on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement;

"(1) When effective November 10, 1939 without conference, negotiation and agreement between the parties it removed the work of recapitulating wage award data consisting of:

- (a) Showing the amount that had been previously paid each trainman,
- (b) The amount that they should have been paid, and
- (c) The net amount due each employe,

out from under the scope and operation of the Clerks' Agreement and assigned said duties and work to Mr. John W. White, Traveling Timekeeper 'excepted,' who performed this work up to and including November 30, 1939.

"(2) That Clerk George K. Schnider be compensated for wage loss sustained in amount \$1.40 per day for each day November 10 to November 30, 1939, inclusive except Sundays November 12, 19 and 26, and Thanksgiving Day, November 23; total \$23.80, which represents the difference in amount earned as report and statistical clerk, rate \$5.79 per day and that of a time-checker rate \$7.19 per day, on the dates enumerated, to which work his seniority entitled him."

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

EMPLOYEES' STATEMENT OF FACTS: "On February 11, 1939, the Missouri Pacific Railroad entered into Memorandum of Agreement to become effective on or about March 1, 1939, with its employes represented by the Brotherhood (copy attached and designated as Exhibit 'A'), which Memorandum of Agreement established a centralization system of timekeeping and timekeeping bureau to include certain positions and rates of pay as reflected in Exhibit 'A,' i. e., Time Checkers \$7.19 per day, to which positions attached the work of checking time slips, checking numbers, coding time slips preparatory to same being sent to the accounting department (machine bureau) where the work was completed by machine operators and automatic key punch and calculating machines.

time checker been assigned to the St. Louis office to perform the work that was done by Assistant Supervisor White, Mr. Schnider would not have, under the rules of our wage agreement with the Clerks, been assigned to this job. The job under the rules of the wage agreement would have been advertised to the clerical employees, and it is only natural to assume that Wieland, with seniority dating September 1, 1919, six months senior to Schnider, would have bid in the job.

"The Employees in presenting this case to your Honorable Board contend:

'When effective November 10, 1939, without conference, negotiation and agreement between the parties it removed the work of recapitulating wage award data.'

as the bases of their claim favor of Schnider. The Carrier denies that it removed any work from clerical employees covered by scope rule of wage agreement with the Clerks' Organization, but that the incidental work performed by Assistant Supervisor White was in connection with his supervisory duties in charge of the Timekeeping Bureau.

"The Clerks further contend that Mr. Schnider be paid alleged monetary loss of approximately \$23.80 account of the work performed by Assistant Supervisor White. Mr. Schnider, as heretofore stated, would not have, under any rules of our wage agreement with the Clerks, benefited in any manner whatsoever if the work performed by Mr. White had been performed by a time checker.

"The Carrier feels that the Employees' contentions are without merit under any rule of the wage agreement or practice, and feels that your Honorable Board should properly deny their claim."

OPINION OF BOARD: This Board has repeatedly held that while Carriers may abolish a position when the duties or work thereof have disappeared, yet the Board has consistently held that Carriers may not assign remaining duties to an excepted position or one entirely without the Scope of the Agreement. This record shows that as a result of certain awards rendered by the First Division of the National Railroad Adjustment Board as a consequence of time claimed by the Brotherhood of Railroad Trainmen, it was necessary to compile certain statistics and other payroll data incident to making the payroll allowances as provided by those awards. That the Carrier designated certain clerks in the timekeeping office at Kansas City to perform this work, and on November 10, 1939, without conference, negotiation or agreement between the parties it abolished the two positions of time clerks, positions within the Agreement, and turned over part of the duties or work thereof to a Mr. John W. White who was a Traveling Timekeeper, an excepted position, and an employe not covered by the Scope of the current Agreement. This Board has repeatedly held that positions or work once within collective agreements cannot be removed therefrom arbitrarily and the work assigned to those holding excepted positions. See Awards Nos. 385, 523, 631, 736, 751, 753, 1209 and 1300. During the period in question the excepted position performed relatively the same class of work as the positions of timekeeper which were discontinued.

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 the Carrier violated the current Agreement as contended by the Petitioner.

AWARD

Claims 1 and 2 sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

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