

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES  
GULF, COLORADO AND SANTA FE RAILWAY COMPANY

**STATEMENT OF CLAIM:** "Claim of the System Committee of the Brotherhood that Carrier violated the rules of the Clerks' Agreement when on April 30, 1938, it abolished Position No. 404, Chief Clerk to Agent, Ballinger, Texas, rate of pay \$5.89 per day while all of the duties thereof remained to be performed and assigned the duties thereof to positions covered by the Agreement rated lower than \$5.89 per day and to employees not covered by that Agreement; and

"Claim that Position No. 404 shall now be re-established and all employees involved in or affected by said violation of rules fully compensated for monetary losses sustained as result of Carrier's action."

**EMPLOYES' STATEMENT OF FACTS:** "Prior to April 20, 1938, the following positions, subject to the scope and operations of the Clerks' Wage and Working Agreements were maintained at Ballinger, Texas:

Position	Title	Hours	Rate of Pay
404	Chief Clerk	8 A. M. to 5 P. M. (1 hr. meal period)	\$5.89 per day
406	Clerk	2 P. M. to 11 P. M. (1 hr. meal period)	4.77 per day

"The primary and essential duties assigned to each position which governed and controlled the classification and rate of pay were:

**CHIEF CLERK No. 404**

Posting station Cash Book and  
Striking daily balances  
Receiving freight and delivering  
bills of lading.  
Checking and delivering freight to  
consignees and draymen.  
Making daily remittances.  
Revising inbound waybills and  
outbound bills of lading.  
Preparing monthly freight reports.  
Waiting on public and looking after  
station in absence of Agent and other  
similar work usually performed by a  
Chief Clerk or Cashier at a station  
the size of Ballinger.

**Time Required**

2'

6'

8'

# ARTICLE XIII—GENERAL.

'Section 15. This agreement shall be effective as of December 1, 1929, and shall continue in effect for two years and thereafter until thirty (30) days' written notice of a desire to change is served by either party on the other.'

"This is merely the usual termination clause generally incorporated in wage agreements and has no bearing whatever on this particular controversy. Apparently the employes have cited this rule and in connection therewith have referred to paragraph (d) of Exceptions to Article I, Section 1, which reads:

'(d) Exceptions (a), (b) and (c) in this Section may be changed to meet the service requirements by agreement between the management and the duly accredited representatives of the employes.'

in an effort to create the impression that, in transferring to the telegrapher-clerk a portion of the work previously performed by the Chief Clerk, the Carrier has in effect added to the list of exceptions in Article I and thereby revised the agreement without consultation with or agreement of the accredited representatives of the Employees. If the Carrier has correctly interpreted the intent of the Employees in this regard, it submits that any such theory is too far fetched to require analysis or answer thereto.

"Summarized briefly, this controversy involves:

"(1st) the general question of the Carrier's right to adjust its station forces to conform to the exigencies of its business, and

"(2nd) the specific question of its right to abolish a clerical position, when the need for a position of that particular character has disappeared, and to divide the duties previously assigned thereto among other existing positions such as telegrapher-clerk and/or clerk in the same office."

**OPINION OF BOARD:** There is discrepancy in the contentions of the respective parties as to the actual distribution of the work involved concerning which full details, as they have been performed upon the various positions at the Ballinger Agency both prior and subsequent to the changes made in April, 1938, have not been presented in the record.

To the extent that the record does disclose the situation, it appears that the resumption by the Agent of all the supervisory duties at the station had resulted in complete removal of such duties from the position of Chief Clerk; but though this be true, there is conflict of data as to the extent of such duties prior to the discontinuance of the Chief Clerk's position and as to the disposition of such duties as well as to the disposition of other remaining duties of that position after its discontinuance.

Considering the entire record of this case and the provisions of the Agreement, it is our opinion that the assignment to Position No. 406 of duties following the discontinuance of the Chief Clerk's position was such as to indicate that Position No. 406 was of similar constitution as the former Position No. 404; that the proper rate of Position No. 406 is \$5.89 per day, and that the occupants of this position are entitled to the difference between the rate of \$4.77 per day and \$5.89 per day, effective April 30, 1938.

**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 claim be sustained to extent indicated in Opinion.

AWARD

Claim sustained to extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 19th day of June, 1941.