

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

THE ERIE RAILROAD COMPANY
(Robert E. Woodruff and John A. Hadden, Trustees)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that the Carrier violated the provisions of the Clerks' Agreement.

(a) When on June 16th, 1939 it abolished position classified as Time and Coal Clerk, rate \$5.45 per day, in the K. E. Yard Office at Kent, Ohio, and assigned the duties and work of such position in part to the General Clerk employed in that office, a lower rated employee whose rate was \$5.10 per day, and to the General Yardmaster, an employee not covered by the scope and operation of the Clerks' Agreement.

(b) That Carrier further violated the provisions and intent of the Agreement when on June 18, 1939 it required the Chief Yard Clerk to take over and perform the outside duties formerly connected with the Time and Coal Report Clerk's position, which on June 16, 1939 had been assigned to the General Clerk, and thereby and concurrent therewith required the General Clerk and Yardmaster to perform work which formerly and always has been performed by the Chief Clerk, the rate of Chief Clerk's position being rated at \$6.15 per day.

(c) That such duties and work as were removed from the scope and operation of the agreement shall now be restored to the employees for whose benefit the agreement was made.

That such work as has always been identified with the Chief Clerk's position shall be restored to that position.

That employee occupying position of General Clerk shall be compensated the difference between the established rate of that position and position of Time and Coal Report Clerk on June 17, 1939 and difference between the established rate of General Clerk's position and Chief Clerk's position from June 18, 1939 forward, and

Further that position of the Time and Coal Report Clerk shall now be restored, rated at \$5.45 per day and be bulletined and assigned under agreement rules, such bulletin to include and specify work and duties performed by the Time and Coal Report Clerk prior to the abolishment of that position.

Miss Goodman was the successful applicant.

The Division Chairman objected to the qualifications specified in the bulletin, alleging that duties had been added that were not formerly performed by the position. He, apparently, was of the opinion that the position classified as Time and Coal Clerk was to be re-established. This was not a fact as is borne out by the exchange of correspondence hereinabove cited. Any qualifications would necessarily include the work customarily performed by the clerk on the position to be increased. Specifically, the Division Chairman was protesting against the stenographic qualifications because he is senior to Miss Goodman on roster and was an applicant for the position but not accepted because of qualifications.

The subject was progressed later by the General Chairman and discussed with him on subsequent occasions but not satisfactorily disposed of, the Railroad maintaining that there was no violation of rules when the qualifications listed in advertisement No. 131, hereinabove quoted, were incorporated for the position rated at \$5.45 per day.

Claim now before the Third Division should be dismissed for the following reasons:

1. There is no violation of Rules and Regulations September 1, 1936 shown.

2. None of the work regularly assigned to the position of Time and Coal Clerk which was abolished June 16, 1939 was thereafter assigned to employees other than those within the scope of the Rules and Regulations September 1, 1936.

3. A small part of the duties formerly performed by Waller, Time and Coal Clerk, but which were jointly handled between him and Miss Goodman were thereafter assigned to Miss Goodman at her regular rate, \$5.10 per day, but all of this was work of a nature and similar to other work which she was customarily performing. It was not work entitled to consideration of \$5.45 per day.

4. When the quick car record book was abandoned June 16, 1939, there necessarily had to be re-assignment of duties and such re-assignment did not conflict with or violate any of the Rules and Regulations September 1, 1936.

5. By agreement in conference June 14, 1940 an understanding was reached by which one of the remaining positions at Kent would be increased to \$5.45 per day, re-advertised and re-assigned. This agreement was carried out, position was assigned to Miss Goodman and she was paid the rate of \$5.45 per day retroactive to June 1, 1940.

OPINION OF BOARD: The claim in this case arose from changes in assignments incident to the abolishment on June 16, 1939, of a clerical position in the Yard Office at Kent, Ohio, rated at \$5.45 per day. Protests thereupon resulted in negotiations between the parties culminating in June, 1940, in the restoration of a rate of \$5.45 to a position in that office by mutual understanding of the parties that the questions at issue were comprehended in their understanding and were disposed of.

As a result of that understanding, such position, rated at \$5.45 per day, was bulletined; whereupon there developed a protest that certain clerical qualifications specified in the bulletin were not in harmony with the understanding reached. This single exception to the understanding has progressed to a submission to this Division of the instant claim,—a remaining controversy which may be most readily and satisfactorily reconciled by the parties themselves.

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 record indicates adjustments by understanding of the parties in respect to the primary cause of this dispute, with but minor controversy remaining in that respect which should be susceptible of reconciliation between them, for which purpose the dispute is remanded to the parties.

AWARD

Claim remanded.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 24th day of March, 1942.