

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

THE TEXAS MEXICAN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The correct rate of pay for the Store Laborer at Laredo, Texas is \$103.42 per month effective as of September 15, 1938. Also

(b) Claim that employes involved in or affected by the failure and refusal of the carrier to apply the proper rate of pay be compensated for all loss sustained.

EMPLOYEES' STATEMENT OF FACTS: There is a position in the Laredo Store that is carried on the payroll as a wiper and is paid \$3.40 per day for 10 hours of work.

This position work exclusively in the Store Department and the entire amount of \$3.40 per day is charged to Store Expense.

The employe holding the position in question is carried on the Clerks' seniority roster with date of December 7, 1920. That seniority roster is approved by the Vice President and General Manager and by the Local Chairman.

The Carrier contends the position is not covered by the Clerks' Agreement.

POSITION OF EMPLOYEES: The employes quote the following rules in support of their claim:

Rule 1. EMPLOYEES AFFECTED

"These rules shall govern the hours of service, wages and working conditions of all the following employes, subject to the exceptions noted below:

(1) Clerks

"Machine operators (such as typewriters, calculating machines, bookkeeping, accounting and statistical machines, dictaphones, key punch, teletype, and all other similar equipment.

"All other office, station and store employes, including office boys, messengers, train announcers, gatemen, checkers, baggage and parcel room employes, train and engine crew dispatchers and callers, telephone switch board operators, elevator operators, office, station, warehouse and storehouse watchmen, janitors and all other employes performing analogous work.

watchman at the shops. He also takes care of the gardens at the shops. And when a laborer's help is needed in the store room at the shops, he performs this work also. This position pays a salary of 46¢ per hour for nine hours each day, seven days per week, and includes a recent increase of salary.

POSITION OF CARRIER: The man holding this position is considered a shop employe and is at present holding this position on account of his seniority in the Mechanical Department. This position is claimed by the Brotherhood of Firemen and Oilers. Although that organization has no contract with this Carrier, it is negotiating at the present time with the Carrier for such a contract. For the type of work being done by this employe in Laredo, Texas, and in line with the compensation paid for similar work by this Carrier, it is felt that the aforesaid compensation is both ample and reasonable.

Wherefore, premises considered, Carrier prays this Honorable Board not to sustain the Brotherhood's claim.

OPINION OF BOARD: The record shows that as of January 30, 1942, the parties reached a tentative understanding that in consideration of the store laborer position at Laredo being classified as covered by the Clerks' Agreement, claims for retroactive compensation would be waived; thereupon the general chairman, by letter of February 3, 1942, sought to have the rate of pay for the involved position spelled out. The Carrier, by letter of February 13, 1942, suggested 26 days be used as the basis for figuring the monthly wage and the general chairman, by letter of February 17, 1942, agreed to that basis, thus indicating that the parties reached an agreement that 26 days would be used as the basis for computing the monthly wage.

This agreement upon the 26-day basis for computing the monthly wage completed the tentative understandings of the parties to an agreement resulting in a basis for establishment of specific rate of pay for the position, effective January 30, 1942.

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 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 successive understandings of the parties in respect to this case completed an agreement providing a 26-day basis for establishment of specific monthly rate of pay for the position.

AWARD

Claim sustained to the extent in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of June, 1942.