

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

H. Nathan Swaim, Referee

PARTIES TO DISPUTE:

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

**GULF COAST LINES, INTERNATIONAL-GREAT NORTHERN
RAILROAD COMPANY, SAN ANTONIO, UVALDE & GULF
RAILROAD COMPANY, SUGARLAND RAILWAY COMPANY,
ASHERTON & GULF RAILWAY COMPANY**

(Guy A. Thompson, Trustee)

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

(a) The Carrier is violating the Clerks' Agreement at Opelousas, Louisiana by requiring or permitting employes who are not covered by the Clerks' Agreement to perform work that is covered by the Clerks' Agreement. Also

(b) Claim that the Carrier be required to assign the work here involved to employes who hold seniority rights and who work under the Clerks' Agreement.

EMPLOYES' STATEMENT OF FACTS: At the time this claim was last filed the station force at Opelousas consisted of the following, with assigned hours as indicated.

Agent	8:00 A. M. to 5:00 P. M.
Asst. Agent Telegrapher	8:00 A. M. to 5:00 P. M.
Porter	8:00 A. M. to 5:00 P. M.
Towerman	6:00 A. M. to 2:00 P. M.
Towerman	10:00 P. M. to 6:00 A. M.

The position of porter is the only position covered by the Clerks' Agreement.

This claim originated several years ago, and on July 25, 1939 a joint survey was made with Messrs. Cox and Judd representing the Carrier, and Dyer representing the Brotherhood. It was agreed that the Clerks' Agreement was being violated and that at least two clerical positions would be required to correct the violation.

An Agreement was reached providing that two clerical positions would be created to which the clerical work would be assigned. The two positions were bulletined on July 31, 1939.

On August 8, 1939 the General Manager repudiated the agreement and settlement that had been made and instructed the Asst. Superintendent to cancel the bulletins advertising the positions.

On October 18, 1940, the General Chairman withdrew the claim, since which time it has not been handled with the Carrier. Therefore, it is the position of the Carrier that the claim is not properly before your Board.

The requirements of the service at Opelousas, Louisiana, make it necessary for the Carrier to maintain communication service between the hours of 8:00 A. M. and 5:00 P. M. which must be performed by the use of the telegraph or telephone. The employe designated as Assistant Agent-telegrapher has been included in the agreement between this Carrier and the Order of Railroad Telegraphers over a period of many years during all of which time he has performed clerical work in connection with his telegraphic duties.

The Agent is classified as a Star Agent under Rule 37 of the agreement dated October 15, 1940, the definition of Star Agent being one which is filled jointly by the Operating and Traffic Departments from the rank of employes covered by the Telegraphers' agreement as provided for in Rule 36 (b) of that agreement. In addition to handling the general run of agency work the Agent consumes approximately four hours daily in writing up cash book and making up other reports. He does not perform any telegraphic duties. He has always been required to perform clerical work; in fact, his duties as agent require him to do so.

The Assistant Agent-telegrapher, assigned 8:00 A. M. to 5:00 P. M., in addition to his telegraphic duties consumes approximately six hours daily performing clerical work.

POSITION OF CARRIER: The question involved in the instant case is that the Carrier is violating the Clerks' Agreement by requiring or permitting employes who are not covered by the Clerks' Agreement to perform work covered by the Clerks' Agreement and that the Carrier be required to assign the work involved to employes who hold seniority rights and work under the Clerks' Agreement. The same question was submitted to your Honorable Board by the Clerks' Organization and handled under Dockets Nos. CL-1865 to CL-1871, inclusive, the only difference being as to location. The position of the Carrier was submitted in detail to your Honorable Board in case covered by Docket CL-1869, which was used as a key case, as the principle involved in that case is the same as that involved in Dockets Nos. CL-1865, 1866, 1867, 1868, 1870 and 1871 and case covered by Docket CL-1869, having been heard before your Honorable Board on March 9, 1942, at which hearing the Carrier submitted oral argument in form of a brief in support of its position, subsequent to which time the Carrier filed with your Honorable Board its written answer to employes' rebuttal and surrebuttal briefs, the same bearing date of March 29, 1942, the members of your Honorable Board are fully informed with respect to the position of the Carrier in the case covered by Docket CL-1869 and as the principle involved in this case is the same as that involved in Docket CL-1869, the Carrier hereby requests that your Honorable Board accept the evidence submitted by it in Docket CL-1869 as evidence in the instant case, and deny the claim upon the findings in that docket: "That there has been no violation of the Agreements."

OPINION OF BOARD: This Award is controlled by the decision in Docket CL-2162, Award No. 2253, in which the essential facts were the same. The contentions and principles were there fully considered and for the reasons therein stated, this claim must be sustained.

FINDINGS: The Third Division of the Adjustment Board 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 agreement as stated in the claim.

AWARD

The claim is sustained as to (a) and (b).

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 10th day of August, 1943.

DISSENT TO AWARD NO. 2255, DOCKET CL-2164

The Award in this case declares it to be controlled by the decision in Award No. 2253, Docket CL-2162.

Accordingly, that which has been said in dissent to Award No. 2253 is applicable to the Opinion in the Award in the instant case, and reference thereto is made for that purpose.

(s) C. C. Cook
(s) C. P. Dugan
(s) R. F. Ray
(s) A. H. Jones
(s) R. H. Allison