

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Howard A. Johnson, Referee

PARTIES TO DISPUTE:

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

WABASH RAILROAD COMPANY

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

(a) Carrier disregarded the provisions of Section 4 of Wage Arbitration Award dated August 17, 1927, and the intended purpose thereof, in requiring or permitting Miss Marjorie Lee Strunk to sit in and to perform duties of clerical assignment in the local freight office at Kansas City for a period of twenty-one (21) days during July and August, 1942, on her own time and at her own expense in order that she might work the position temporarily during absence of the regular occupant, Miss Helen McAuliffe, and for which Miss Strunk was compensated at beginners' rate of \$3.68 per day as of the first date she assumed the full duties and responsibilities of the temporary vacancy.

(b) Miss Marjorie Lee Strunk be compensated at beginners' rate of \$3.68 per day on each of the following dates she was permitted to and performed the duties of the position of clearing house clerk under the instructions of the regular occupant, July 21, 22, 23, 24, 27, 28, 29, 30 and 31; August 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15, 1942.

EMPLOYEES' STATEMENT OF FACTS: The name of Miss Marjorie Lee Strunk appears on the Kansas City Terminal Division clerical roster with clerical seniority date of May 18, 1942.

On each of the following dates, July 21, 22, 23, 24, 27, 28, 29, 30 and 31; August 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15, 1942, Miss Marjorie Lee Strunk was permitted and required to perform work of clerical assignment in local freight office at Kansas City, designated as clearing house clerk, with the regular occupant of the position, Miss Helen McAuliffe, giving her the necessary instructions as to the handling of the various duties assigned. Effective Monday, August 17, 1942, Miss Strunk was temporarily assigned to assume the full responsibilities and duties of the position during temporary absence of Miss McAuliffe and for which Miss Strunk received the beginners' rate for inexperienced clerks, or \$3.68 per day. Established clerical rate of the position of clearing house clerk is \$5.96 per day, which is the lowest clerical rate in the local freight office with the exception of switchboard operator, rate \$5.48 per day.

In support of the above statement to the effect that Miss Strunk performed the work on position of clearing house clerk for a period of twenty-one (21) days, being instructed by the regular occupant of the position, Miss Helen McAuliffe, the employees' committee submits a photostatic copy of letter signed

When consideration is given to the foregoing, it is obvious that the alleged claim set up in the Committee's ex parte Statement of Claim is without basis under the rules of the Schedule for Clerks, and, therefore, the contention of the Committee should be dismissed and the claim denied.

OPINION OF BOARD: This claim concerns the same employee as Docket CL-2433, Award 2428, and the facts are the same except that this incident arose after she had become an employee of the Carrier but before she had served for six months.

The record contains nothing to alter the result reached by this Division in the above award.

The claim must be sustained.

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 Employee involved in this dispute are respectively carrier and employee 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.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1943.

DISSENT TO AWARD NO. 2429, DOCKET CL-2449

This Award rests on the Opinion in Award 2428.

The fact that the same individual had in this instance acquired the status of an employee, in no way changed the fundamental facts as to voluntary request to be permitted to sit in with the regular occupant of the position to familiarize herself with the work in anticipation of a subsequent vacancy. The individual was not occupying a position, nor rendering service for or at the request of the Carrier.

For the reasons stated in Dissent to Award 2428 the conclusions here reached are likewise in error.

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