

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, 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 violated the Clerks' Agreement on January 20, 1943, when it denied Mrs. Katherine Moffett the right to work overtime in the performance of work regularly assigned to and performed by her. Also

(b) Claim that Mrs. Moffett be paid two (2) hours' overtime because of the agreement violation.

EMPLOYEES' STATEMENT OF FACTS: Mrs. Moffett is employed as Utility Clerk-Machine Operator in the Auditor's office at Houston.

On January 20, 1943, it was necessary that certain work in the Auditor's office be completed which required overtime work. Three (3) hours overtime work was required in operating the I. B. M. machine—work regularly assigned to and performed by Mrs. Moffett.

Mrs. Moffett worked one hour's overtime on January 20, 1943, but was not permitted to perform the remainder of her work. The balance of Mrs. Moffett's work (two hours) was performed by Mr. D. Brown, a Traveling Accountant.

The Carrier recognizes that the work performed by Mr. Brown was work regularly assigned to and performed by Mrs. Moffett, as disclosed by Exhibits A, B, C, and D.

POSITION OF EMPLOYEES: The facts, circumstances and rules involved in this case are identical with those involved in the following claim which has been submitted to your Honorable Board:

"Claim of the System Committee of the Brotherhood that:

"(a) The Carrier violated the Clerks' Agreement on January 20, 1943, when it denied Mrs. Pauline B. Cobb the right to work overtime in the performance of work regularly assigned to and performed by her. Also

"(b) Claim that Mrs. Cobb be paid four (4) hours overtime because of the agreement violation."

By referring to the Local Chairman's letter to the Auditor dated February 13, 1943 and the General Chairman's letter to the Assistant General Manager dated February 17, 1943, both of which are quoted in the Carrier's Statement of Facts, it will be found that the claim is based upon Paragraph B of Rule 45 of the Current Agreement with the Clerks' Organization, which reads as follows:

"In working overtime before or after assigned hours, employees regularly assigned to class of work for which overtime is necessary shall be given preference; the same principle shall apply in working extra time on Sundays and holidays."

Under the above quoted rule Mrs. Moffett was permitted to work one hour overtime on January 20, 1943 and at 6:00 P. M. on that date, having worked nine hours, was relieved of further service by reason of the fact that the Carrier is prohibited under the Texas State Law to require her to work in excess of nine hours on any calendar day, which law is applicable to women employees according to the opinion rendered by the Attorney General's Office of the State of Texas approved by him personally, October 2, 1942. (See Carrier's Exhibit No. 1)

In the instant case, Mrs. Moffett was given preference to work overtime after her assigned hours as is provided for in Section B, Article 45 of the current Agreement with the Clerks' Organization and worked the full amount of overtime which the Carrier could permit her to work and comply with the Texas State Law governing the hours of service of female employees.

There is no law, either Federal or State, which limits the hours of service of male employees engaged in clerical work such as involved in the instant case and, therefore, in order to assure the closing of the accounts in the Auditor's Office on January 21, 1943, Mr. D. Brown was called to perform the I. B. M. Machine work on an overtime basis as the Carrier could not legally permit Mrs. Moffett to work in excess of nine hours on that date.

Based on the facts and evidence herein submitted, Carrier respectfully requests your Honorable Board to deny the claim of the employees.

OPINION OF BOARD: The record discloses that Katherine Moffett was employed as Utility Clerk-Machine Operator in the Auditor's office at Houston, Texas. On January 20, 1943, she was entitled under the terms of the current Agreement to work overtime for three hours. She was permitted to work one hour in addition to her regular eight hour assignment and thereupon ordered by the Carrier to cease work because of a Texas statute prohibiting women from being worked more than nine hours in any twenty-four hour period.

The facts, circumstances and rules involved in this case are identical with those involved in Award No. 2433, Docket CL-2416, decided herewith, and the result is governed entirely by the opinion accompanying that award. The record will not, therefore, sustain an affirmative award.

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 did not violate the current agreement in giving effect to a Texas statute prohibiting women from being worked more than nine hours in any twenty-four hour period.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of December, 1943.