

Award No. 3223
Docket No. CL-3238

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**

MISSOURI PACIFIC RAILROAD COMPANY

Guy A. Thompson, Trustee

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement:

1. When on March 1, 2 and 3, 1945, during the hours of 4:00 p.m. to 12:00 midnight it removed the work of the Crew Caller, rate \$5.16 per day, out from under the scope and operation of the Clerks' Agreement at Omaha, Nebraska and assigned said work to a roundhouse laborer, Margie John, who holds no seniority rights under the Clerks' Agreement entitling her to perform same, and failed and refused and continued to refuse to permit employees covered by the Clerks' Agreement to fill the temporary vacancy and be paid for same;

2. Crew Caller, Hazel H. Flanagan shall be paid for eight (8) hours at time and one-half time, or .9675 per hour—\$7.74 per day for each of the days March 1, 2 and 3, 1945, three days—\$23.22, account Carrier's action in violation of the Agreement.

EMPLOYES' STATEMENT OF FACTS: The force of clerical workers, employes covered by the scope and operation of the Clerks' Agreement, employed at the Roundhouse Office, Omaha, Nebraska on and prior to March 1st, 1945, and subsequent to March 3rd, 1945, their classification, rate of pay, regular hours of service assignment and seniority date as listed on the Superintendent's Clerks' Seniority Roster, Groups 1 and 2 of the Omaha—Northern Kansas Division was as follows:

Position & Regularly assigned occupant	Scope Rule 1 Group Designation	Rate	Regularly assigned hours	Desig- nated day of rest	Seniority date re- spective group
Engine Dispatcher M. W. Stanford	Group 1	\$6.81	8 am to 4 pm	Wed.	Sept. 27, 1923
Crew Caller M. A. Stanford	Group 2	\$5.16	4 pm to 12 M	Mon.	June 9, 1943
Crew Caller Hazel H. Flanagan	Group 2	\$5.16	12 M to 8 am	Tue.	Sept. 18, 1944

was incorporated in the schedule agreement effective July 1, 1943, at the insistence of the Employes—the purpose and intent of the rule was to permit the incumbent to perform authorized overtime work attaching to his position without regard to the seniority status of the incumbent involved. No part of this or any other rule in the agreement gives to anyone other than the incumbent of a position any contract right to work authorized overtime.

Carrier reiterates that the rules of the agreement relied upon by the Employes in support of their contentions in the instant case have no application in the matter in dispute and believes that it has conclusively established that the complaint and claim in this docket are without basis or merit and therefore should be denied.

OPINION OF BOARD: On March 1, 2 and 3, 1945, Crew Caller M. A. Stanford was absent from work because of illness. An employe subject to the Agreement of another craft but holding no seniority under the Clerks' Agreement was called to fill the position. Claimant, an employe under the Clerks' Agreement contends she was wrongfully deprived of the work and makes claim therefor.

The case is controlled by Award 3222, Docket CL-3237, a companion case. The Agreement was violated and Claimant is entitled to be compensated at the rate the regular occupant of the position would have received had she worked it.

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 Agreement was violated as alleged.

AWARD

Claim (1) sustained. Claim (2) sustained to the extent shown by the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 29th day of May, 1946.