

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Ernest M. Tipton, Referee

PARTIES TO DISPUTE:

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

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY

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

(a) The Carrier violated the Clerk's Agreement by removing from the scope and operation of that Agreement certain routine clerical work, hereinafter described, and assigned such work to Mr. J. M. Traylor, Chief of the Revising Bureau at Chicago, a position excepted from the Clerks' Agreement; and,

(b) That the Carrier be required to restore all of the work involved to the scope and operation of the Clerks' Agreement; and,

(c) That Revising Clerk Theodore E. Sanmann be compensated in the amount of four (4) hours per day at punitive rate—monetary loss sustained by him as a result of this agreement violation—from September 11, 1941 until the violation is corrected.

EMPLOYES' STATEMENT OF FACTS: Prior to August 22, 1941 the force in the Revising Bureau at Chicago was as follows:

| Name | Position | Assigned Hours |
|---------------|--------------------------|--------------------|
| W. Hogan | Chief of Revising Bureau | 8:00 AM to 5:00 PM |
| T. E. Sanmann | Revising Clerk | 7:30 AM to 4:30 PM |
| H. Nelson | " " | 1:00 PM to 9:30 PM |
| J. M. Traylor | " " | 1:00 PM to 9:30 PM |
| L. Murphy | Machine Operator | 8:00 AM to 5:00 PM |
| F. Klebenow | " " | 1:00 PM to 9:30 PM |

Mr. Hogan, Chief of the Bureau, which position is excepted from the Agreement, supervised the work of the Bureau, took care of supplementary corrections, outgoing transit shipments, diversions, correspondence and the telephone. In addition he revised waybills from two daily reporting nearby stations, viz., Lockport and Pekin, Illinois and five weekly reporting stations, viz., Chillicothe, Coal City, McCook, Minonk and Morton, Illinois.

Revising Clerk Sanmann's duties consisted of rating and revising all of the inbound waybills, the work of adjustments on the Corwith outbound

The claim is entirely without merit and should be declined for the following reasons:

- (1) The Bureau Chief at Chicago has always been a working supervisor, regularly performing clerical work, and was so recognized under the Agreement effective December 1, 1929.
- (2) The change in starting time effective September 11, 1941, for Revising Clerk Sanmann was made in strict conformity with the applicable provisions of the Clerks' Agreement effective December 1, 1929.
- (3) There was no measurable or significant change in the work assignments of the Bureau Chief, of Revising Clerk Sanmann, or of any other member of the Revising Bureau as a result of force reduction and changes in starting time which occurred in September, 1941.
- (4) The handling complained of was accepted and confirmed by the negotiation of the new Agreement, effective October 1, 1942, which was subsequent to the effective date of the claim but prior to the date on which the claim was actually filed.
- (5) Neither the claimant, Mr. Sanmann, nor any other employee suffered any loss of earnings whatsoever as a result of the handling complained of.

OPINION OF BOARD: This record shows a hopeless disagreement between the parties as to the time this claim was first presented to the Carrier. The Employees state that it was first presented on September 11, 1941, while the Carrier denies that it was presented on that date, and states that this claim was first presented to it on April 18, 1944. There is no evidence in the record to corroborate the statements of either party.

For a proper determination of this dispute, it is essential for this record to affirmatively show when the Employees first presented this claim to the Carrier. The claim is, therefore, remanded to the parties for additional evidence to show when the claim was first presented.

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 Employees involved in this dispute are respectively carrier and employees 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 claim is remanded to the parties for additional evidence to show when the claim was first presented.

AWARD

Claim remanded to the parties for additional evidence to show when the claim was first presented to the Carrier.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 13th day of December, 1946.