

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Bruce Blake, Referee

PARTIES TO DISPUTE:

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

SEABOARD AIR LINE RAILWAY

L. R. Powell, Jr. and Henry W. Anderson, Receivers

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

(1) That the carrier violated and continues to violate the Clerks' Agreement at Wilmington, N. C., when, on or about June 3, 1945, it removed the duties of checking, receiving, forwarding and delivering of baggage arriving and departing on Trains No. 13 and No. 14, on Sundays and holidays out from under the scope and operation of the Clerks' Agreement and assigned such work to an employee not covered thereby, and

(2) That Warehouse Foreman F. M. Moore be used on Sundays and legal holidays to perform service required at the Passenger Station which was performed by him prior to June 3, 1945, and that he be compensated under the overtime and call rule of the Clerks' Agreement for three hours 1:00 P. M. to 4:00 P. M. at punitive rate of his assignment each Sunday and holiday retroactive to June 3, 1945 that he has been denied the right to perform such service.

EMPLOYEES' STATEMENT OF FACTS: F. M. Moore was assigned to the position of Warehouse Foreman, Wilmington, N. C. in May, 1938, the duties of the position involving the checking, receiving, forwarding and delivery of baggage in addition to regular warehouse duties as evidenced by Chief Clerk R. C. Rogers' letter of January 19, 1938 addressed to Mr. Moore, identified as Employees' Exhibit No. 1.

Effective September 20, 1943 Mr. Moore's assignment was changed from a six to a seven day basis, Mr. Moore thereafter being paid time and one-half for work performed on Sundays and holidays, and effective May 12, 1944 his position was changed back to a six day basis, Mr. Moore being paid on call basis for work performed each Sunday and holiday from 1:00 P. M. to 4:00 P. M., this change being covered by carrier's advertisement bulletin issued May 22, 1944, identified as Employees' Exhibit No. 2.

Effective Sunday, June 3, 1945 and each Sunday and holiday thereafter, Mr. Moore was deprived of the Sunday and holiday work attaching to his position, same being removed from the scope and application of the Clerk's Agreement and assigned to the operator, an employee not covered thereby.

2. The representative of the complainant admitted in his letters of November 12, 1944 and February 4, 1945 that the handling of baggage was work that should be assigned to the clerk-operator. The principles at issue in this dispute were decided by your Honorable Board in Award No. 615 when it was stated, "It has always been the rule that telegraphers may be assigned clerical work without limit except their capacity to fill out their time when not occupied with telegraphy."

For the above stated reasons, we respectfully request that the claim be declined.

OPINION OF BOARD: It seems to us the record in this case has been made unnecessarily confusing by injection of a controversy over who handled baggage prior to 1942. This controversy, in our opinion, is wholly immaterial to the issue presented; whether the work falls within the scope rule of the Clerks' Agreement.

The facts are: that from 1942 to June 3, 1945, the work of handling baggage at Wilmington was assigned to employees covered by the Clerks' Agreement on Sundays and holidays as well as week days; that since June 3, 1945, the work has been assigned to such employees on week days; that since said date the work on Sundays and holidays has been assigned to employees not covered by the Clerks' Agreement.

Regardless of how or to whom the work of handling baggage was assigned prior to 1942, it was properly assigned from some time that year until June 3, 1945 to employees covered by the Clerks' Agreement. For, there can be no question, under the decisions of this Board, that the work falls within the Scope of the current Agreement. Awards Nos. 631, 2044, 2052, 3101.

Continuing, as it does, to assign the work to employees covered by the Agreement on week days, the Carrier is hardly in a position to contend otherwise. Award No. 2549.

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 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 7th day of February, 1947.