

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

James M. Douglas, Referee

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**PARTIES TO DISPUTE:**

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

**THE WESTERN PACIFIC RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood of Railway Clerks that position of Assistant T&E Timekeeper, Superintendent's Office, Sacramento, formerly held by D. J. Irwin and now rated at \$7.79 per day, should properly be classified as First Assistant T&E Timekeeper at rate of \$8.09 per day and that D. J. Irwin, adversely affected by reason of failure of the Railroad properly to classify and rate this position coincident with assignment of higher rated duties, shall be compensated for wage loss sustained since September 2, 1941.

**EMPLOYEES' STATEMENT OF FACTS:** In response to a request for an increase in rates of pay and an adjustment in the wages of certain clerical and related positions in 1926, The Western Pacific Railroad Company agreed with the Brotherhood of Railway Clerks that it would apply similar increases and make adjustments in the wages of certain positions along the lines as would be generally promulgated by the Board of Arbitration to which was submitted a request for an increase in wages by the Clerks employed by the Southern Pacific Company, which award was handed down April 16, 1927, and which provided that the increases granted on that road were to become effective as of January 1, 1927.

The award handed down by the Board of Arbitration provided for increases in pay ranging from three to seven cents per hour. As an alternative the Award also provided:

"Section 11—The sum of the increases granted may be distributed by joint action of the representatives of the Carrier and of the employees in such manner as will establish just and equitable rates for each position in existence on the Carrier's payrolls, both as between positions within each seniority district, and also as between seniority districts; provided the representatives . . . can mutually agree to said distribution . . .".

Section 11 was adopted as the method of applying the increase on the Western Pacific. Generally speaking, the amount of four cents per hour was applied as a horizontal increase, and one cent per hour per position was put into a pool to be drawn upon for adjustment of inequalities.

The Railroad furnished statements of duties covering practically all positions then in existence. These statements of duties were checked over by representatives of the Brotherhood. Through joint action, rates of pay

promotion should make every effort to acquaint themselves with work of other positions in order that they may be qualified when opportunity for advancement occurs".

Carrier contends that there is nothing in the schedule which requires the establishment of the new classification requested and that all of the work which the incumbent of the position here involved has and is doing under the direction of the Head Timekeeper is properly classified as belonging to Assistant Timekeeper and by the payment of Assistant Timekeeper's rate full compensation has been allowed.

**OPINION OF BOARD:** Petitioner contends that when additional positions of Assistant T&E Timekeeper were created on or about September 2, 1941, that some of the duties usually performed by the Head T&E Timekeeper were transferred to one of these positions, and that such duties consume practically all of the time of the one Assistant. Petitioner claims that this Assistant should be designated as **First Assistant T&E Timekeeper**, and the Board should assign this position a new wage rate.

At present there is no position designated as **First Assistant T&E Timekeeper**. However, Petitioner contends that Carrier by assigning different duties to the position in question has created a new position which should receive the same rate as the position of Personal Record Clerk and Assistant T&E Timekeeper, which rate is about midway between the rates assigned to the positions of Assistant and of Head T&E Timekeeper. However, the position of Personal Record Clerk and Assistant T&E Timekeeper is not now of similar kind and class to the position in question. The timekeeping work was removed from it before the present position was created, as we understand the record. Compare Award 2683. Even before the timekeeping work was removed from that position it was not of similar kind or class.

Petitioner does not contend the timekeeping duties of the position of Personal Record Clerk and Assistant T&E Timekeeper were transferred to the position in question so Rule 6 is not involved.

It appears to us the Petitioner is seeking to have the Board establish a new wage rate for a new position. Under the circumstances here, that should be done by negotiation and agreement of the parties. This Board does not have jurisdiction to do so. See Awards 2682, 3373.

For want of jurisdiction this claim must be dismissed.

**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 does not have jurisdiction over the subject matter of the dispute involved herein; and

That the claim should be dismissed without prejudice.

#### AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 20th day of March, 1947.