

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**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY**

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

(a) That Clerk Leslie M. Wing shall be given credit for clerical experience accumulated while serving in the Army of the United States; and,

(b) That Clerk Leslie M. Wing shall be paid the established rate of pay of the position he occupied retroactive to January 16, 1946.

EMPLOYEES' STATEMENT OF FACTS: Clerk Leslie M. Wing, whose class 1 seniority date is June 26, 1941, had accumulated in excess of six months clerical experience in the service of the Carrier and was being compensated at the intermediate rate of pay of positions on which he performed service prior to his induction into the Army of the United States on July 15, 1942.

During his service in the Army Mr. Wing performed clerical work for a total of thirty-four months, fourteen months as a General Clerk and twenty months as a Supply Non-Commissioned Officer. As a General Clerk Mr. Wing was required to perform a variety of clerical duties and as a Supply Non-Commissioned Officer he performed such duties as preparing, consolidating and editing requisitions and purchase orders, checking supplies received, issued or shipped and keeping records of stock on hand and making reports on these items, all of which duties were comparable to clerical work performed by clerical employees in railroad offices.

He was discharged from the Army on December 3, 1945, and returned to the service of the Carrier January 16, 1946, on Position No. 1575, Car Record Clerk, Argentine Yard Office, Argentine, Kansas, basic rate \$8.21 (now \$8.41) per day. Upon his return to the service of the Carrier in January 1946 he had thirty-four months clerical experience to his credit accumulated in the Army plus the clerical experience he had accumulated prior to his induction into the armed forces and was therefore, under provisions of Agreement rules, entitled to be compensated at the full basic rate of his position. Carrier refused to recognize the clerical experience Wing accumulated in the Army and compensated him at the intermediate rate of the position he occupied until such time as he accumulated a full eighteen months clerical experience in the service of the Carrier.

Attached hereto and made a part hereof and identified as Employees' Exhibit "A" is photostatic copy of Separation Qualification Record issued by the Army of the United States to claimant upon his Honorable discharge as

ance of clerical work in the Army **prior** to establishment by the complainant employe of an employment relation with this Carrier; whereas, in the instant dispute there is involved the alleged performance of clerical work in the Army **after** the establishment of an employment relation with this Carrier by the complainant employe and for which service no experience credit could properly be allowed within the meaning and intent of Article XI, Sections 2(a) and (b) of the current agreement. Because of this, a denial by the Board of the instant claim is warranted all the more.

* * * *

In their handling of the instant claim with the Carrier the Employees cited as in violation Article II, Section 1 and Article XI, Section 1 of the Clerks' Agreement. Those rules, which are quoted at the beginning of the Carrier's Statement of Facts, obviously have no bearing whatever on the instant dispute, which involves solely the question of crediting complainant employe with clerical experience he is alleged to have acquired in the United States Army.

The Employees also cite as in violation Sections 2(a) and (b) of Article XI of the Clerks' Agreement, contending that those sections provide only that employes hired for or promoted to clerical positions who have had less than eighteen months' clerical experience shall be paid certain specified lesser amounts than the established rate of the position until they accumulate eighteen months' clerical experience, **regardless of how or when such clerical experience may be accumulated.** As has been previously shown in the Carrier's Position, there is no support in the language of the referred-to rules for the contentions advanced by the Employees. Those rules, to the contrary, **clearly provide that only experience in railroad clerical work or clerical work in outside industry of a similar nature to railroad clerical work may be considered, and, moreover, they pertain only to experience obtained by individuals before they establish an employment relation with this Carrier.**

A sustaining award in the instant dispute would have the effect of broadening Article XI, Sections 2(a) and (b) of the Clerks' Agreement to require the crediting of experience of a kind which clearly is not now recognized under its terms. This the Third Division it not authorized to do under the Railway Labor Act, as amended.

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In conclusion the Carrier asserts that the instant claim is entirely without merit or schedule support and should be denied for reasons heretofore stated.

(Exhibits not reproduced.)

OPINION OF BOARD: Clerk Leslie M. Wing occupies the position of Car Record Clerk, Argentine Yard Office, Argentine, Kansas. Prior to his induction into the Army on July 15, 1942, he had acquired six months' clerical experience with the Carrier. He returned to the service of the Carrier on January 16, 1946. While in the Army he served fourteen months as a general clerk and twenty months as a Supply Non-Commissioned Officer, positions in which he was principally engaged in doing clerical work. It is the contention of Clerk Wing that he is entitled to credit for this clerical experience in the Army in determining his rate of pay under the provisions of Article XI of the current Agreement.

Every question here raised is determined in Award No. 3950, decided herewith. On the authority of that award, this claim must be sustained.

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 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 charged.

AWARD

Claim (a) and (b) sustained.

NATIONAL RAILWAY ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 30th day of June, 1948.