

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Angus Munro, Referee.

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

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

(a) The Carrier has violated and continues to violate the rules of the Clerks' Agreement by assigning two Train Desk Clerks and a Baggage-man-Caller at Keddie, California, a meal period of one hour.

(b) The hours of the three assignments be corrected to eight consecutive hours without an assigned meal period.

(c) All employees who have worked on these positions be compensated at the rate of time and one-half for all time in excess of eight hours, computed continuously from the proper starting time of each shift, subsequent to November 18, 1946.

EMPLOYEES' STATEMENT OF FACTS: On April 28, 1946, a position of Relief Clerk was advertised for bids through Clerks' Circular No. 104-46 (Employees' Exhibit "1"), to provide one day relief in seven for positions of Baggage-man-CTC Janitor; Warehouseman-Janitor (2 positions), Train Desk Clerk (2 positions) and Baggage-man-Caller.

This position was again advertised for bid through Clerks' Circular No. 270-46 (Employees' Exhibit "2") dated November 18, 1946.

Through General Chairman's letter dated January 8, 1947 (Employees' Exhibit "3"), addressed to the Superintendent, the Carrier's attention was directed to the rules violation there involved in the assigning of a meal period to each of three of the positions on which relief was to be performed, inasmuch as they were all engaged in the same character of service and should have properly been assigned to work a straight eight-hour shift without a meal period.

The Superintendent wrote the General Chairman on March 2, 1947 (Employees' Exhibit "4"), and declined to make any change in the assignment.

The General Chairman again wrote the Superintendent on March 11, 1947 (Employees' Exhibit "5"), calling his attention to the fact that the incumbents of each of the positions involved were required to call crews as a part of their duties and requested that further consideration be given to the request of the employees.

duties of each position. This fact is borne out in a check of the time devoted by these three clerks to crew calling between May 10 and June 9, 1947:

	Daily Average Time Devoted to Calling Crews	
Baggageman-Caller		
Train Desk Clerk—6 A. M.—3 P. M.	1 hour	20 minutes
Train Desk Clerk—3 P. M.—12 Midnight	—	32 minutes
	1 hour	17 minutes

There is no basis for the contention that incumbents of the Train Desk positions and incumbent of the Baggageman-Caller position are engaged in the same character of service. With exception of the incidental duty of crew calling, the train desk clerks perform no duty common with the Baggageman-Caller and the latter position performs no duties in the yard office.

There is no yard office work performed by clerks between midnight and 6:00 A. M. There is no crew calling performed during the meal periods of the two train desk clerks and the baggageman-caller. In other words, there is no clerical function at Keddle which could be considered as requiring continuous hours.

The number of trains for which it is necessary to call crews at Keddle varies from two (2) to six (6) in a 24-hour period; the latter figure includes two assigned locals which operate tri-weekly, one of which is at times operated as a turnaround and eliminates the need to call the crew at Keddle. There are only two trains in the 24-hour period for which crews have to be called regularly at Keddle.

The Organization has cited Awards Nos. 1590, 1710 and 1819 of the Third Division in progressing this dispute. It is to be noted that in Award No. 1590, under a rule similar to Rule 18 involved in this dispute, the employees claim was denied. Likewise, Award No. 1710 denied a portion of the employees' claim covering a position which did not work in rotation with other positions throughout the twenty-four hour period. The employees' claim in Award No. 1819 was allowed on the basis of a rule which is not contained in Agreement governing clerical employees on this property.

It is Carrier's contention that the evidence verifies the fact that the yard office operation at Keddle could in no way be considered "a regular operation requiring continuous hours", and, therefore, no basis for the Organization's claim exists.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier maintained at the location involved herein three (3) jobs styled as follows, to wit:

1 train desk clerk,	6:00 A. M. to 11:00 A. M.
meal time	12:00 M. to 3:00 P. M.
	11:00 A. M. to 12:00 M.
1 train desk clerk,	3:00 P. M. to 7:00 P. M.
meal time	8:00 P. M. to 12:00 M.
	7:00 P. M. to 8:00 P. M.
1 baggage-caller,	12:00 M. to 4:00 A. M.
meal time	5:00 A. M. to 9:00 A. M.
	4:00 A. M. to 5:00 A. M.

The function of crew calling was common to said jobs.

Petitioner avers the hours of work arrangement is repugnant to Rules 18, 16 and 20 of the Schedule in that by reason of the duty common to said jobs the regular operations of Carrier required continuous hours.

We cannot agree with the Brotherhood. While crew calling is necessary in order for Carrier to operate and assuming but not deciding crew calling to be clerical in nature, it is still a fact such duty is but a small fractional part of the duties on the third trick position. Furthermore, since crew calling is not necessary during the meal period of the first and second tricks we cannot say it is that type of an operation requiring continuous hours within the meaning contemplated by the Schedule.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

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 violation of the Schedule has not been established.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 12 day of April, 1951.