

Award No. 5350

Docket No. CL-5301

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis J. Robertson, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Chicago, Rock Island and Pacific Railway Company, that the Carrier violated the Clerks' Agreement, when

(1) On February 6, 1950, it abolished the position of Night Freight Clerk, rate \$232.92 per month, at the Local Freight Office at Dodge City, Kansas, and a large portion of the clerical work was assigned to the supervisory Agent who is paid a monthly salary for all services rendered;

(2) That V. M. Bolding, Cashier, rate \$257.17, be allowed six hours and fifty-five minutes each day at punitive time, account supervisory Agent who is paid a monthly salary for all services rendered, being assigned and performing clerical work, effective February 6, 1950, until the practice is discontinued;

(3) That the position of Night Freight Clerk, rate \$232.92, be restored and reimbursement made for any monetary loss sustained by all employees affected, retroactive to February 6, 1950, date position was discontinued.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement between the parties to this dispute, bearing an effective date of August 2, 1945.

January 1, 1949, the Station clerical force at Dodge City, Kansas, Local Freight Station, was as follows:

		Assigned Hours	Position worked Days Per Week
Cashier	\$245.32	7:00 A. M. to 11:00 A. M.—12:00 Noon to 4:00 P. M.	6
Clerk	223.50	7:00 A. M. to 12:00 Noon—1:00 P. M. to 4:00 P. M.	6
Clerk	221.07	8:30 A. M. to 12:00 Noon—1:00 P. M. to 5:30 P. M.	6
Clerk	221.07	12:05 A. M. to 8:05 A. M.	6
From January 29, 1949, to February 6, 1950, the clerical force at Dodge City, Kansas, Local Freight Station, was as follows:			
Cashier	\$257.17	8:00 A. M. to 12:00 Noon—1:00 P. M. to 5:00 P. M.	5
Clerk	235.35	8:00 A. M. to 12:00 Noon—1:00 P. M. to 5:00 P. M.	5
Clerk	232.92	12:05 A. M. to 8:05 A. M.	5

ment and then if it decreases, it may be returned to the position to which it is incident.

In view of the foregoing to sustain the claim of the organization for reinstatement of the position would be unjust because it would require the carrier to establish a position it did not need. Moreover, it would result in increasing the amount of unassigned time of the station force employees at Dodge City and result in paying employees for services not rendered.

Inasmuch as the telegraphers are parties in interest, they should be notified by the Board of the pendency of these proceedings in a legally sufficient manner.

It is the position of the carrier that the claims in this docket are unsupported by proper construction of the rules of the agreement, particularly that construction which is consistent with the awards of this Board. Therefore we respectfully petition the Board to deny these claims.

(Exhibits not reproduced.)

OPINION OF BOARD: From the wording of this claim as submitted it would appear that the Employees are asserting a violation of the Clerks' Agreement because of the abolishment of a position of Night Freight Clerk at Dodge City on February 6, 1950 and assigning of a large portion of clerical work of that position to the Agent stationed at that point.

We have read and re-read the record in an attempt to determine what that work was and whether or not a transfer of same was made on the abolishment of the Night Freight Clerk's position. It is not surprising, however, that our efforts in that direction were unavailing for in the Employees' Rebuttal Brief we find that the Employees state: "The claim filed by Mr. Bolding for six hours and fifty-five minutes is for time the Agent has been re-assigned clerical work after we were advised April, 1948, the clerical work had been removed from the Agent."

It appears from the record that a settlement was made between the Carrier and the Employees about April 5, 1948 in connection with the performance of clerical work by the Agent at this station involved herein. It appears to be contended by the Employees in their Rebuttal Brief that the Carrier has not lived up to the understanding reached at that time. Clearly, the claim asserted in the Employees' Rebuttal Brief and the claim contained in the notice of intention and Employees' submission are at complete variance.

We find no evidence of the assignment of six hours and fifty-five minutes of clerical work to the Agent beginning on or after February 6, 1950. The only item of clerical work which the evidence submitted by the Employees indicates was assigned to the Agent after the abolishment of the Night Clerk's position was ten minutes required in making some waybills in case of overflow. The Employees admit they did not desire to be technical and question such a small amount.

On the basis of this record it is clear that we have no alternative but to deny the claim as asserted. It should be clear, however, that this is not determinative of the propriety or impropriety of assignments of clerical work to the Agent's position following the April 1948 settlement. The record here, despite its inordinate voluminousness, isn't developed with sufficient relevancy to that question to permit of a decision thereon, even if we were to determine that the claim as asserted is sufficient to justify its consideration.

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 Carrier did not violate the Agreement as asserted in the Statement of Claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 24th day of April, 1951.