

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John W. Yeager, Referee

PARTIES TO DISPUTE:

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

READING COMPANY

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

1. That the Carrier violated the rules of the Clerks' Agreement when on August 8, 1950, certain reports involving clerical work and duties in connection therewith were removed from the scope in the application of the rules of the Clerical Agreement and transferred to employees not covered by the Agreement.

2. That the incumbents of the positions of Interchange Clerks, namely: J. Forbes, W. Robinson, F. Shaw, L. Lankin and G. O. Cox, or their successors as incumbents in positions of Interchange Clerks at Park Jct'n., Philadelphia, Pa. be compensated for monetary wage loss, amounting to two (2) hours for each employe, at overtime rates for each and every day they worked on the assignments of positions of Interchange Clerks after September 18, 1950, which date they were verbally instructed not to perform any further overtime; the discontinuance of such overtime resulting from transfer of work to employees not covered by the Agreement as specified in Claim 1.

EMPLOYEES' STATEMENT OF FACTS: For a period of at least twenty (20) years and considerably longer, the clerical employees designated as Interchange Clerks at Park Jct'n., Philadelphia, Pa. under the scope and application of the rules of the Clerical Agreement had performed duties in connection with both Eastbound and Westbound Interchange at Park Jct'n., an interchange point between the Reading Company and the Baltimore and Ohio Railroad at Philadelphia, Pa. At Park Jct'n. there exists, at the present time, three (3) positions of Interchange Clerks on an around the clock basis i.e. (1) 7:00 A. M. to 3:00 P. M., (2) 3:00 P. M. to 11:00 P. M. and (3) 11:00 P. M. to 7:00 A. M. Due to the large volume of cars interchanged at this point and the volume of work resulting therefrom, as well as certain other established duties, it had been difficult for the incumbents of positions at this point to keep up with the necessary reports, inquiries and correspondence on a current basis and they were required to work considerable overtime for a long period of time. We attach hereto as Exhibit "A" and a part of our statement of facts, a copy of the amount of overtime performed by the Interchange Clerks at Park Jct'n. between the period, including October, 1947 and up to and including the month of September, 1950.

It is the Carrier's position that under the car service rules and accepted practice with respect thereto, the preparation of interchange reports and related work in connection with cars delivered to the Carrier by the Baltimore and Ohio Railroad was not work which the Carrier was obligated and required to perform but was the responsibility of and properly work for the Baltimore and Ohio, the delivering road, to perform. This work did not rightfully belong to the employees of the Carrier nor was it work properly within the scope of the clerical agreement on this property. Furthermore, when the performance of this work was discontinued there was no reduction in the number of clerical positions or clerks employed nor were any employees deprived of employment.

Under the facts and evidence presented hereinbefore, the Carrier maintains the rearrangement of the interchange work was not improper or in violation of Rule 13 or any other rules of the effective Clerks' agreement, therefore, the claim as submitted by the Employees is without merit and unjustified and Carrier requests that same be denied in its entirety.

The evidence contained in this submission was discussed in conference and handled by correspondence with representatives of the Brotherhood of Railway and Steamship Clerks.

(Exhibits not reproduced.)

OPINION OF BOARD: There is here no substantiated dispute as to controlling facts. The determination depends upon the proper interpretation and application of Rule 13 (b) of the agreement between the Organization and the Carrier which is as follows:

"(b) Positions or work within the scope of this agreement belong to the employees covered thereby and nothing in this agreement shall be construed to permit the removal of positions or work from the application of these rules except through negotiations."

At Park Junction, Philadelphia, Pa., the Carrier maintains three clerk positions, one for each of three daily trips. This is an interchange point for the Reading Co., and the Baltimore & Ohio Railroad. For many years the employees of the Reading made the interchange reports for both carriers. Effective August 8, 1950 the practice of having the interchange reports coming from the Baltimore & Ohio to the Reading made by the Reading employees was discontinued and this was done thereafter by Baltimore & Ohio employees. This change was not accomplished through negotiation with the Organization. This the Organization contends, within the meaning of the Rule provision quoted, amounted to removal of work which belonged to employees under the Scope Rule of the Agreement.

The basis on which the claim is made is that the work involved overtime to which the employees were entitled and the claim is in behalf of the occupant of the three positions for overtime.

This work before August 6, 1950 unquestionable was work which belonged to the Organization under the Scope Rule of the Agreement. Had the Reading itself removed it and assigned it to others that would have been a violation. This, however, was not done. In point of fact it allowed or caused it to flow back to the Baltimore & Ohio. Whether it allowed or caused it to flow back is of no controlling significance. It was work which properly belonged to the Baltimore & Ohio, and in the first instance and at no time thereafter could the Reading have performed it without consent of the Baltimore & Ohio.

The Organization has the right to perform all of the work properly belonging to the Carrier which is covered by the Scope Rule. It also has the right to perform all work embraced by the Scope Rule done by the

Carrier by agreement or arrangement with another carrier so long as the agreement or arrangement continues. It may not claim any right to the performance of work which was done because of agreement or arrangement with other carriers after discontinuance of the agreement or arrangement, no matter what was the motive or reason for the discontinuance.

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 claim has not been sustained.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 22nd day of July, 1952.