

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

David R. Douglass, Referee

PARTIES TO DISPUTE:

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

RAILWAY EXPRESS AGENCY, INC.

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

(a) The agreement governing hours of service and working conditions between the Railway Express Agency, Inc., and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, effective September 1, 1949 was violated on or about September 1, 1950 in the office of the Superintendent of the Washington-Alaska-Yukon Division at Seattle, Washington when higher rated duties or work were assigned to Mabel Hoyer, Marie McFarland, Dorris P. Buttery and Clara Nesalhous without compensating them at the prevailing rates for the duties or work they performed:

(b) Mabel Hoyer shall now be paid the rate of \$289.04 basic per month, retroactive to and including September 1, 1950 at which time higher rated duties or work were assigned to her; and

Marie McFarland, Dorris P. Buttery and Clara Nesalhous shall be paid the rate of \$259.98 basic per month, retroactive to and including September 1, 1950 at which time higher rated duties or work were assigned to them.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1, 1950, there were two operating superintendent's divisions maintained by Railway Express Agency, Inc., as follows: The Montana Division, with headquarters offices at Spokane, Washington, having jurisdiction over territory roughly confined to the State of Montana, and the Washington-Alaska-Yukon Division, with headquarters offices at Seattle, Washington and exercising jurisdiction over Oregon, Washington and the Territory of Alaska. The work in the superintendent's offices was similar in character, although varying in degree due to the difference in amount of business transacted in the respective divisions, with the office of the Washington-Alaska-Yukon Division being the larger of the two.

Each of the offices maintained a position on which the principle duty was the handling of payrolls and payroll accounts for employees engaged in train service work. The position of "Payroll Clerk" in the former Montana Division was held by Eva L. Barton at salary rate of \$289.04 basic per

All evidence and data set forth have been considered by the parties in correspondence and conference.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a rate of pay case which arose as a result of the consolidation of the Spokane, Washington office with the Seattle, Washington office, and the operation of two divisions as a single division at Seattle.

The rate of pay for the Spokane Payroll Clerk was \$5.25 per month more than that of the Seattle Payroll Clerk. The rate of pay of the Spokane Stenographer was \$4.07 per month more than that of the two Seattle Stenographers, or the Clerk-Stenographer at Seattle. These rates remained the same after the consolidation and until August of 1951, when the positions of the two former Spokane employees were abolished.

The Organization relies mainly on Rule 80 of the Agreement. Rule 80 is captioned—"Preservation of Rates" and reads:

"Employees temporarily or permanently assigned to higher rated positions shall receive the higher rates while occupying such positions; employees temporarily assigned to lower rated positions shall not have their rates reduced.

"A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the position during the time occupied, whether the regular occupant of the position is absent or whether the temporary assignee does the work irrespective of the presence of the regular employee."

The Claimants are not entitled to have their rates increased to equal those of the former Spokane employees, by virtue of Rule 80. The Claimants were not assigned to higher rated positions, either permanently or temporarily. The Claimants continued to perform the same type work which their positions called for. The nature of the work was not changed.

The fact that the Claimants did perform some of the duties which the higher paid employees had formerly performed, is not the deciding factor. The main point, as we view it, is that under the terms of Rule 95 the—"Basic rates of pay now in effect shall become a part of this agreement and shall remain in effect until changed by mutual agreement or as provided herein."

The differences in the rates of pay were because they had been so established on the different divisions. The reasons for such differences may be many, but the type of work was the same.

To establish new rates for these Claimants is a matter for negotiation, and not a prerogative of this Board.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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

Dated at Chicago, Illinois, this 7th day of August, 1952.