

Award No. 6129

Docket No. CLX-5932

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul G. Jasper—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 and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, effective October 1, 1940, was violated at San Francisco, Calif., on June 1, 1948 when higher rated duties were assigned to Loading Sorters, Forwarding Department, Pier 14, and carrier failed and refused to pay the higher rate;

(b) The rate of these positions shall be adjusted to the higher rate of \$268.00 per month and employees R. Jackson, I. Hurst, J. Farrell, J. Corbelli, S. Larson, C. Bueb, J. Boule, J. Callero and E. Garcia, occupants of the positions compensated accordingly retroactive to and including June 1, 1948 on which date the higher rated duties were added; and

(c) The rate of relief positions shall be adjusted to the higher rate of \$268.00 per month on days required to relieve Loading Sorters and employees F. Sitler and H. Bodnar, occupants of the positions compensated accordingly retroactive to and including June 1, 1948 on which date the higher rated duties were added.

EMPLOYEES' STATEMENT OF FACTS: R. Jackson et al were the regular occupants of positions titled "Loading Sorters" et cetera with varying hours of assignment and varying week days assigned as rest days. Salary of the Loading Sorter, Group 200 positions \$263.00 per month, with duties and qualifications prescribed by bulletin as follows:

"Sorting and loading express. Must be physically able to handle express and must understand roster and schedules."

In Decision E-1519, Referee Grady Lewis said:

"R. R. Schardin is employed as Express Handler at the Sacramento, California agency.

"Complaint is made that this employe has had duties added to his bulletined assignment that were formerly performed by On Hand Clerks. Adjustment of rate of pay for the position held by Schardin is, accordingly, asked.

"Examination of the duties required of this employe when he was first employed and those exacted at the present time shows some very slight changes in the work * * *. These details are but routine changes in the process of handling express, the work he evidently hired for. It cannot be reckoned as the work of an On Hand Clerk."

Copies of all of the Decisions cited above are attached for ready reference. Even if by any stretch of the imagination the additional duty, if it may be so called, of denoting car number and transfer point by crayon on traffic loaded by Loading Sorters, can be considered higher rated work, the decisions cited definitely dispose of any claim that Rule 80 has been violated. The facts speak for themselves. Employes have completely failed to show that Rules 79, 79-A and 80, or any other rule of the Agreement, have been violated, and the claim should be denied.

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

(Exhibits not reproduced).

OPINION OF BOARD: Claimants were employes of the Carrier, assigned to duties as Loading Sorters, Forwarding Department, at Pier 14, San Francisco, California. The salary for Loading Sorters was \$263.00 per month, with duties and qualifications bulletined as follows:

"Sorting and loading express. Must be physically able to handle express and must understand roster and schedules."

June 1, 1948, new roster and route books were put into effect. They were issued to claimants, and claimants were instructed to mark on each piece of express the car number and transfer point, if any. This was in addition to their duties performed prior to June 1, 1948.

The claimants contend that the requirement by the Carrier of marking express with the car number and transfer point, if any, required them to perform the duties of a Freight Director, a higher rated position, and therefore they were entitled to a Freight Director's pay. A Freight Director's position is rated at \$268.00 per month, with duties and qualifications bulletined as follows:

"Directing the dispatch of traffic according to current routing schedules and train rosters. Must be thoroughly familiar with routing schedules and current train rosters. Must be physically able to handle express."

The record reveals that a Freight Director's duties required him to know the routing of traffic throughout the United States. When express came to the Freight Director he would ascertain the route over which the freight was to travel, and then mark on the express the house section to which it was to go. There were ten (10) house sections in the Forwarding Department at Pier 14. The Freight Director would place a number from 1 to 10 on each piece of express. He would place the express on the truck numbered according to his section. Prior to June 1, 1948, the Freight Director also marked the destination of the shipment.

The Loading Sorter's duties prior to June 1, 1948, required him to remove the express from the conveyor, note the number marked thereon, and then load the express on the corresponding numbered truck or trailer in his house section. Loading Sorters work at different house sections when required. Since June 1, 1948, in addition, the Loading Sorters were required to know the actual route over which the express shipment would travel to its destination. They must know the car number in which the shipment was to be placed, and whether or not it would require transfer. They would mark on each piece of express, with crayon, the car number and the transfer point symbol.

From the facts as presented, we must decide whether or not the Loading Sorters were performing work of a higher rated position. It is well settled that it is not necessary for one to perform all of the duties and responsibilities of the higher rated position to be entitled to pay at the higher rate.

The bulletined duties of the Loading Sorter, among other things, required him to "understand roster and schedules." The bulletined duties of the Freight Director, among other things, required that he "must be thoroughly familiar with routing schedules and current train rosters."

The facts of this case show that Loading Sorters, since June 1, 1948, were required to be thoroughly familiar with the routing schedules and current train rosters. They were required to be physically able to handle express, and, by the marking of the car number and the transfer point, they were dispatching traffic. If a mistake was made in the dispatch of traffic because of a wrong car number or transfer point, the responsibility would have been the Loading Sorter's.

We believe the Loading Sorters were substantially performing the duties and responsibilities of the higher rated position, that of Freight Director.

Rule 80 of the Agreement, Preservation of Rates, was violated when the Loading Sorters were assigned substantially the same duties and responsibilities performed by the Freight Director.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 13th day of March, 1953.

DISSENT TO AWARD NO. 6129, DOCKET CLX-5932

The Award of the majority herein is in error in holding that the requirement that Loading Sorters understand "rosters and schedules" entitles them to Freight Directors' rate, when their use of such knowledge is confined simply to marking with crayon express packages with the car number and transfer point symbol.

For the above reason we dissent.

/s/ C. P. Dugan

/s/ J. E. Kemp

/s/ W. H. Castle

/s/ E. T. Horsley

/s/ R. M. Butler