

Award No. 6183
Docket No. CL-6142

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

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

THE ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violates the Rules of the Clerks' Agreement at Youngstown, Ohio, when on Saturday, November 4, 1950, and subsequent Saturdays, it failed and refused to compensate Mr. H. A. Davis, Car Distributor at time and one-half rate for rest days worked, and

That Carrier shall now compensate Mr. H. A. Davis for eight (8) hours at time and one-half rate in addition to monthly rate received for Saturday, November 4th, 1950, and all subsequent Saturdays worked.

EMPLOYEES' STATEMENT OF FACTS: The position of Car Distributor, Youngstown, Ohio is assigned to work Monday to Friday, inclusive, with Saturday and Sunday as rest days. Prior to September 1, 1949, the occupant of this position worked nine (9) hours a day seven (7) days per week and was paid a monthly rate comprehending such service or 274 hours per month. Effective September 1, 1949, the position of Car Distributor, Youngstown, Ohio, was assigned to work Monday to Friday, inclusive, with Saturday and Sunday as rest days. The occupant of the position is paid a monthly rate to cover 169½ hours at pro rata rate, and 35 overtime hours at time and one-half rate for the work days per week and hours per month as specified in the rules of the Clerks' Agreement. Mr. Davis worked Saturday, November 4th, 1950 and subsequent Saturdays, for which service he received no additional compensation.

This claim was filed in accordance with established procedure with the Superintendent of the Railroad Company, under date of February 3, 1951, Employees' Exhibit "A". Claim was denied by the Superintendent under date of February 14, 1951, Employees' Exhibit "B". Claim was handled in regular progression to the highest officer designated to handle such matters, and filed under date of April 17, 1951, Employees' Exhibit "C". This claim was discussed at conferences on several occasions, and at conference of November 13th, 1951, it was mutually agreed that all of the procedures for handling grievances on the property in accordance with the Railway Labor Act and the Clerks' Agreement had been complied with. This was confirmed by Employees' letter dated November 15th, Employees' Exhibit "D".

repudiate one Memorandum Agreement what is to stop them from repudiating any other agreement? They should not be permitted to escape their responsibility or to unjustly enrich themselves at the expense of the Carrier.

The Carrier has also established that there has been no violation of any agreement and that the Claimant is not entitled to the compensation which he claims.

Therefore, the Carrier submits that the claim is without merit and should be denied.

All of the information herein has been discussed with or is known to the Employees.

(Exhibits not reproduced).

OPINION OF BOARD: The claim of the Organization is that the Carrier violates the rules of the Clerks' Agreement at Youngstown, Ohio, when it fails to compensate H. A. Davis, Car Distributor, at time and one-half rate for work on rest days worked.

The claimant is a monthly rated employe filling what is known as an X-3 position. Under Memorandum Agreement of May 26, 1950, his monthly rated salary of \$400.38 was arrived at by taking 169½ pro rata hours and adding thereto 35 hours at the overtime rate. It is the contention of the Employees that this overtime must be worked during his 40-hour work week; that when he works on his rest day or holidays he should be compensated, in addition to his monthly salary, time and one-half for the time worked on assigned rest days and holidays.

For the reasons advanced in Award 6182, this claim is found to be without merit and must be denied.

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 14th day of April, 1953.