

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

SPOKANE, PORTLAND AND SEATTLE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of System Committee of the Brotherhood that Carrier violated rules of Agreement effective January 1, 1952:

(a) When on January 1, 1953, they assigned to others work normally attached by bulletin assignment to Weighmaster position, job No. 20, in the Vancouver Yard Office.

(b) That Carrier shall now compensate claimant, W. C. Wakeman, regularly assigned to position of Weighmaster, job No. 20, for wage loss sustained, i. e. eight hours' pay at time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: The Yard Clerical force on the second shift at Vancouver as of January 1, 1953, was as follows:

Position Number	Name of Regular Assignment	Daily Hours of Service	Week Day Assignment	5, 6 or 7 Day Assign.	Relief Clerk
10	1st Night Chief Clerk	3:55 P.M.- 11:55 P.M.	Thurs.-Mon.	7 day	Rel. Clk. R3 Tues. & Wed.
13	1st Leading Car Clerk	3:55 P.M.- 11:55 P.M.	Tues.-Sat.	7 day	Rel. Clk. R3 Sun. & Mon.
18	Special Record Clerk	3:55 P.M.- 11:55 P.M.	Thurs.-Mon.	7 day	Rel. Clk. R3 Tues. & Wed.
20	Weighmaster	3:55 P.M.- 11:55 P.M.	Mon.-Fri.	6 day	Rel. Clk. R3 Sat.
26	Yard Clerk	3:55 P.M.- 11:55 P.M.	Sat.-Wed.	7 day	Rel. Clk. R5 Thurs. & Fri.
29	Yard Clerk	3:55 P.M.- 11:55 P.M.	Mon.-Fri.	7 day	Rel. Clk. R6 Sat. & Sun.
35	Yard Clerk	6 P.M.- 2:00 A.M.	Wed.-Sun.	5 day	No relief.
32	Yard Clerk	5:00 P.M.- 1:00 A.M.	Tues.-Sat.	5 day	No relief.

It will be noted that Jobs 32 and 35 are designated as 5 day positions, Job 20 is a 6 day per week position and all others 7 days per week. Relief workers are assigned to relieve the 7 day positions on the regular assignees designated rest days of each week. Also a relief worker is assigned to relieve the regular assignee on Job 20 on Saturdays of each week. Work on the

There a freight house force which normally worked 5 days per week Monday through Friday, was, for a period, worked Saturday and Sundays due to a car shortage. The sole question determined in that award was the proper supervisor to be used on Saturday and Sunday for this force. Certainly that award has no relevance to the instant dispute.

The attention of your Board is directed to Third Division Awards 6078, 6079, and 6080, Clerks vs. Railway Express Agency. All three awards involve the same factual situation. The opinion of Referee Begley in Award 6078 controls all three awards.

In Award 6080 claim was presented by Depot Clerk for a day's pay because his position was blanked on certain holidays and position of Money Clerk in the same office was filled; the employe filling the latter position performing all the work in the office necessary to be done on the holidays, including some of the work attaching to position of Depot Clerk.

Referee Begley, in denying the claim, found that because holidays were not part of the assigned days for claimant, Carrier did not violate the agreement when it required the Money Clerk, who worked on the holidays, to perform some of the duties attaching to the position of Depot Clerk. Award 6080 is squarely in point with the instant case.

Carrier has shown:

- (1) That no rule in the Clerks' Agreement here in evidence was violated when claimant was not required to work on the holiday in question;
- (2) That, on the contrary, the action of the Carrier is expressly permitted by the Agreement;
- (3) That each of the awards cited by Employees, in support of their claim, involved a factual situation so dissimilar to ours as to render those awards irrelevant to a consideration of the issue here presented;
- (4) That Awards 6078, 6079, and 6080, particularly the latter, involved a factual situation squarely in point with ours, and hence, the denials in those awards are controlling in resolving this dispute.

Carrier, therefore, asks that your honorable Board deny this claim.

All data in support of the Carrier's position have been submitted to the Organization and made a part of the particular question here in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was regularly assigned as Weighmaster No. 20, Vancouver Yard Office, Vancouver, Washington, 3:55 P. M. to 11:55 P. M., Monday through Friday, with Saturday and Sunday as rest days. A regular relief clerk filled the position on Saturdays. It was not filled on Sundays. On Thursday, January 1, 1953, a holiday, claimant's position was blanked and other clerical employes performed the necessary work of the position on that day. The claimant contends that he was entitled to perform the work and asks reparations for its loss.

The record shows without doubt that claimant was the regular occupant of Weighmaster Position No. 20. Many duties were assigned other than weighing cars, some of which prevented his weighing cars for short periods. Other qualified clerical employes weighed cars during such periods. In other words, claimant did not have the exclusive right to all weighmaster work. The work here in question must be treated as work on an unassigned day. Such work is covered by Rule 59 (d), which states:

"Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employee who will otherwise not have 40 hours of work that week; in all other cases by the regular employee."

The Carrier blanked claimant's position on the holiday as it had a right to do. Award 7136. It was under no obligation to use the claimant as long as regular employees entitled to perform the remaining work were able to absorb it. If it was necessary to have assistance in the performance of the work, the regular employee is entitled to it under the holdings of this Board. Award 7134. No work was performed which was the exclusive work of this claimant. No additional employee was used to perform exclusive work of claimant's position. His claim is not valid.

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
Secretary

Dated at Chicago, Illinois, this 23rd day of September, 1955.