

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Livingston Smith, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement:

1. When on Saturday, February 13, 1954, it moved regularly assigned Relief Clerks O. Chartrand, Relief Pool No. 16, rest days Tuesday and Wednesday, and A. Sowa, Relief Pool No. 10, rest days Thursday and Friday, from their bulletined and established location and station and freight warehouse platform at 124 Miller Street, St. Louis, to another separate and distinct station and freight warehouse located at Main and Gratiot Streets, St. Louis, Missouri, on an assigned work day at their regularly assigned station and location on this day and required these Clerks to suspend work on their regularly assigned positions during working hours, in violation of Rules 8, 24, 25 (f) and related rules of the Clerks' Agreement.

2. Regularly assigned Relief Clerks O. Chartrand and A. Sowa each shall be paid additionally a day's pay on Saturday, February 13, 1954 at the pro rata rate of \$14.48, account the Carrier requiring them to suspend work on their regularly assigned position on an assigned work day and go to another location and station to work as Receiving-Check Clerks, in order to absorb overtime of Clerks regularly assigned as Receiving-Check Clerks at that station and location (Gratiot Street Station) where moved, account the Carrier's action in violation of the Agreement.

3. Leo Novak, regularly assigned OS&D-Cooper Clerk, Gratiot Street Station and J. J. Murray, regularly assigned Receiving-Check Clerk at Gratiot Street Station shall each be compensated for six hours at \$2.715 per hour, amount \$16.29, on Saturday, February 13, 1954, account Carrier moving regularly assigned Relief Clerks O. Chartrand and A. Sowa at 10:00 A. M. from their established and assigned position and location on an assigned day for them to work at Miller Street Station freight warehouse, in lieu of utilizing these Claimants who were the incumbents of the work at Gratiot Street Station and who were off duty on their rest day, available for work to

which they were justly entitled, in violation of Rules 8, 24, 25(b), 25(f) and related rules of the Clerks' Agreement.

EMPLOYEES' STATEMENT OF FACTS: The Missouri Pacific Railroad has for many years maintained in the City of St. Louis, Missouri, separate and distinct freight stations and warehouse platform facilities and at each such facility a force of station employes such as General Foreman, Warehouse Foreman, Assistant Warehouse Foreman, Route Clerks, Receiving Clerks, Check Clerks, Delivery Clerks, Sealer and warehouse platform laboring force, such as Pickers, Stowmen, Callers, Truckers, etc., have been employed and these stations, all of them, have been subject to the jurisdiction and supervision of one Station Agent with Assistant Agents, Chief Clerk, etc., at each station.

Prior to about January 1, 1952 and during the period of Agreements between the Carrier and the Clerks' Organization, going back to the time of the National Agreement effective January 1, 1920, the Carrier maintained **three separate and distinct freight warehouse and platform facilities** and platform clerical and labor force at each separate station and facility and location, namely:

1. Seventh Street Station—St. Louis, Missouri, at which station the Agent's force and part of the Local Freight Station office clerical force was located;
2. Biddle Street Station—Near Third Street, St. Louis, Missouri, at which station and warehouse platform facility there was employed a Warehouse Platform Foreman, Assistant Foreman, Receiving Clerks, Delivery Clerks, Check Clerks, etc., and a warehouse platform laborer force such as Stowmen, Pickers, Truckers, etc.
3. Gratiot Street Station—At Main and Gratiot Streets, St. Louis, Missouri, where a part of the Agent's office clerical force was located and there was employed also Warehouse Platform Foreman, Assistant Foreman, Receiving Clerks, Delivery Clerks, Check Clerks, etc., and a warehouse platform laborer force such as Stowmen, Pickers, Truckers, etc.

It can be correctly stated that a sizeable force subject to the scope and operation of the Clerks' Agreement was maintained at each of these freight stations and warehouse platform facilities through the years.

On or about July 8, 1938, in accordance with the provisions of a mutual Agreement of the parties, Biddle Street Station freight warehouse facility became known as the "Universal Carloading and Distributing Company" facility and was thereafter used as the carloading and freight forwarding warehouse platform facility of the freight forwarding company who maintained its own office force in the building located near one end of the warehouse platform and the employes of the freight forwarding company on the freight warehouse platform were taken over as provided for in the Agreement of July 8, 1938 and dovetailed as to name and seniority date with the names and seniority dates of Missouri Pacific employes listed upon the St. Louis Terminal (west of the Mississippi River) Station and Yards seniority rosters, Groups 1, 2 and 3. Hence those employes of the freight forwarding company thus taken over by Agreement thereafter became Missouri Pacific Railroad employes with such things as "pass privileges", "hospitalization", "retirement and unemployment insurance benefits" and vacations, etc., extended to them on the same basis according to their service as theretofore were accorded Missouri Pacific Railroad employes and Biddle Street Station remained a separate and distinct station and warehouse platform facility, separate from Seventh Street and Gratiot Street, even though on the same seniority district, and such positions covered by the Clerks' Agreement as were subject to the Bulletin rules of the Agreement were advertised and assigned to employes at Biddle Street designated as a separate and distinct station and location as was also true with respect to the advertising and assigning of such positions at the

With that understanding, we told you that we would arrange to have eliminated from future bulletins the addition to the location of the word '... and elsewhere as needed.'"

The file contains no response to this letter and there is no record of any further handling on the part of the Organization which indicates acceptance of the Carrier's position that transfer within the same seniority district for performance of the same kind of work at the same rate of pay is not a violation of the Agreement.

Of course, the instant case differs from the Dupo case in that it is backed by a well established practice and the claims are based on certain rules and contentions not advanced in the handling of the dispute at Dupo.

It is the position of the Carrier that the Employes have failed to establish any Agreement violation in this case and the rules cited do not support the claims.

OPINION OF BOARD: The locale of the instant dispute is identical with that with which the Board was concerned in Awards 7223 and 7224, except here the facilities involved are the Miller Street and the Gratiot Street Stations and the claims involve the alleged improper transfer of Claimants Chartrand and Sowa, both holders of regular relief assignments with Saturday as an assigned day, from the Miller Street facility to the Gratiot Street facility on a Saturday rather than (as the Petitioners assert is proper) calling out Claimants Novak and Murray, each of whom had Saturday as rest days, to perform work at the Gratiot facility.

The issue here is properly subject to resolution under the principles laid down in Awards 7223 and 7224, decided this date. We held in those cases that the Petitioners failed to sustain the burden of proving a violation. The evidence here presented is substantially the same as that presented in Awards 7223 and 7224 and, for the reasons set forth in those Awards, requires a similar finding.

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 Employes involved in this dispute are respectively Carrier and Employes 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, for the reasons set forth in the Opinion, the facts of record do not justify an affirmative Award.

AWARD

Claims 1, 2 and 3 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 2nd day of February, 1956.