

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

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

SACRAMENTO NORTHERN RAILWAY

STATEMENT OF CLAIM: (a) Carrier violated the rules of the Clerks' Agreement when it abolished the position of Rate-Bill Clerk at the Oakland Freight Station at the completion of work on October 10, 1951, and in lieu thereof, established a position of Relief Clerk to perform on each Tuesday, Wednesday and Sunday during the period October 11, 1951 to July 12, 1952, inclusive, a majority of the work previously performed by the occupant of the position of Rate-Bill Clerk, and to relieve on the position of Bill-Train Desk Clerk each Monday and Chief Clerk-Cashier each Saturday.

(b) Mr. W. J. Sorel, and other employees who held the position of Relief Clerk during this period, be compensated for five days each week for work performed Monday through Friday.

(c) Mr. Sorel, and/or his successors to the position of Relief Clerk, be compensated at the rate of time and one-half for all work performed on Sunday subsequent to October 10, 1951.

(d) Mr. Frank Benedict and/or his successors to the position of Train Desk-Bill Clerk at Oakland Freight Station be compensated for eight hours each Monday, subsequent to October 10, 1951, at the pro-rata rate of his position on which he was improperly relieved by the so-called Relief Clerk.

(e) Mr. Frank Benedict, and/or his successors to the position of Train Desk-Bill Clerk, be compensated for all service performed on Saturday subsequent to October 11, 1951, at the rate of time and one-half in accordance with the provisions of Rule 19 (g) 3 of the Clerks' Agreement.

(f) Mr. L. T. Coyle, and/or his successors to the position of Chief Clerk-Cashier at the Oakland Freight Station, be compensated for eight hours at the rate of time and one-half for all service performed on his position on Saturday subsequent to October 11, 1951, by the occupant of the so-called position of Relief Clerk

EMPLOYEES' STATEMENT OF FACTS: Immediately prior to October 10, 1951, the clerical force employed at the Oakland Freight Station was as follows:

ment which prohibits the assignment to a properly constituted relief position of a work week which includes Sunday under the circumstances here presented. For the reasons stated Carrier asserts that the instant claim is completely without merit and urges that it be denied in its entirety.

All of the above has been presented to the Employees. Carrier requests the opportunity to appear and file a statement at the oral hearing before the Board.

(Exhibits not reproduced)

OPINION OF BOARD: Prior to October 10, 1951, Carrier maintained a clerical force of four employees at its freight office at Oakland, California. Two employees worked five-day positions and two worked six-day positions, the latter being worked on their Saturday rest days at the rest day rate. On October 10, 1951, the rest days of one of the six-day positions (Train Desk-Bill Clerk) were changed to Sunday and Monday. One five-day position (Rate Bill Clerk) was abolished. A position of Relief Clerk was created and assigned to work the Saturday and Monday rest days of the two six-day positions and three fill-in days, Sunday, Tuesday and Wednesday. The dispute hinges on whether or not the assignment of Sunday as a fill-in day was in violation of the Agreement.

The Organization contends that as there were no seven-day positions at this point, and in fact no seven-day service, no Sunday work could properly be assigned. The Carrier asserts that the assignment is authorized by Rule 12 (e), Supplemental Agreement effective September 1, 1949. This rule provides in part:

"All possible regular relief assignments with five days of work and two consecutive rest days will be established to do the work necessary on rest days of assignments in six or seven-day service or combinations thereof, or to perform relief work on certain days and such types of other work on other days as may be assigned under this agreement."

The Carrier relies upon the words of the rule "such types of other work on other days", pointing out that Sundays are not excluded. We are of the opinion, however, that this language is limited by the words "as may be assigned under this agreement." In other words, if there is no seven-day position and the work is not required on Sunday, as the Carrier here admits, we do not think it is proper under the rules to assign Sunday work as a fill-in day. The Carrier points out that such an interpretation would prevent it from providing relief on the Saturday and Monday rest days and at the same time comply with the requirement of two consecutive rest days for the occupant of the relief position. While this is true, adequate provision has been made for this contingency in Rule 12 (g), particularly Section 5 thereof. We agree that the relief assignment was improperly made.

It is further contended that the Agreement was violated when the Carrier abolished the Rate-Bill Clerk position and allegedly transferred the work thereof to the newly created Relief Clerk position, particularly to the three fill-in days thereof. The record shows that the higher rated work of the Rate-Bill Clerk was assigned to the Chief-Clerk-Cashier position and that it was performed by the Relief Clerk only when he relieved this Chief-Clerk-Cashier position. It appears that only a part of the lower rated work was assigned to the Relief Clerk on his fill-in days. We do not think the Organization has shown a violation of the Agreement as to the work assigned to the Relief Clerk.

We conclude that the Agreement was violated when Sundays were included as fill-in days for the Relief Clerk position, and to that extent Claim (a) is sustained. Claim (b) will be denied as Claimant is not entitled to work Monday through Friday as claimed. Claim (c) will be sustained. Claim

(d) is denied as the Claimant was properly relieved on his Monday rest day. Claim (e) is denied as it was a regularly assigned work day of the Claimant's position. Claim (f) is denied because Claimant was properly relieved on Saturdays by the Relief Clerk.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties in 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 to the extent shown by the Opinion.

AWARD

Claim (a) partially sustained.

Claim (c) sustained.

Claims (b), (d), (e) and (f) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 20th day of April, 1956.