

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

A. Langley Coffey, Referee

PARTIES TO DISPUTE:

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

MIDLAND VALLEY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway Clerks that the Carrier violated the Clerks' Agreement at Muskogee, Oklahoma, beginning February 16, 1953, when,

(a) It removed by unilateral action the work of handling of Hostlers and Hostler Helpers daily time from the position of Clerk (Timekeeper) in Seniority District No. 4 and assigned same to the Chief Timekeeper's position (an excepted position) in Seniority District No. 2, and,

(b) That Mr. Leo C. Lyle or other occupant of the position of Clerk (Timekeeper) in Seniority District No. 4 shall be compensated for 15 minutes each day at punitive rate beginning February 16, 1953 and continuing until final settlement of this claim.

EMPLOYEES' STATEMENT OF FACTS: For many years prior to February 16, 1953 it has been part of the duties of the Clerk (Timekeeper), Mechanical & Store Department, Muskogee, Oklahoma, Seniority District No. 4, to pick up Hostlers and Hostler Helpers daily time cards at Roundhouse, see that these cards were properly filled out and approved by Foreman and post same on time sheets, sign time sheets as being correct and forward time sheets and cards to Accounting Department at close of each half.

On February 12, 1953 Carrier issued General Notice No. 1145 instructing that effective February 16, 1953 time slips for the Hostlers and Hostler Helpers at Muskogee would be turned in to the Yardmaster to be forwarded to the Vice President & General Manager for handling the same as other engine employees time.

Thereafter the processing of these Hostlers and Hostler Helpers time slips requiring 15 minutes each day were handled by the Chief Timekeeper in Seniority District No. 2.

POSITION OF EMPLOYEES: The material facts in this case are not in dispute and involve the unilateral action of the Carrier in transferring work from one seniority district to another.

16, 1953, there was no longer need for the Timekeeper at the shop to check the time and enter same on summary sheet. This system had passed out. The same work was not performed by another employe in another seniority district, instead an entirely new and different procedure was followed by the employes in the other department. We desire to add here that such work has been and is now being handled by the Chief Timekeeper, this position being excepted from the provisions of the agreement to the extent that the promotion, assignment and displacement rules are not applicable to this position, all other rules being applicable to this position. This, however, is of no consequence.

We desire to call attention to the fact that the work which is alleged to have been removed from the Shop Timekeeper was not assigned by agreement to that position or department in that seniority district. However, this is of no consequence as the work previously performed by the Shop Timekeeper is not now nor had it been performed by some one else in another department or seniority district. The work formerly performed by the Shop Timekeeper disappeared.

In view of all of the facts and circumstances there is no schedule rule supporting the claim. Further, the claimant or other employes were not adversely affected by reason of this alleged violation and the organization has failed to sustain the burden of proof as to Claims (a) and (b).

The carrier relies solely on its rights and privileges to make the change in system as set forth in the statement of facts.

Since this is an ex parte case, this submission has been prepared without seeing the employes' statement of facts or their contention as filed with the Board, and the carrier reserves the right to make a further statement when it is informed of the contention of the petitioner, and requests an opportunity to answer in writing any allegation not answered by this submission.

Carrier's Exhibit A is attached hereto.

All data submitted herewith in support of the carrier's position has been presented to the employes or their duly authorized representative and is hereby made a part of the matter in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Claim is made on behalf of L. C. Lyle, incumbent of the Clerk (Timekeeper) position at Carrier's Mechanical and Store Department at Muskogee, Oklahoma, Seniority District No. 4, for fifteen (15) minutes each day at the punitive rate, beginning February 16, 1953 and continuing until final settlement of this claim.

While the scope rule of the Agreement is among those cited and relied upon by petitioner in support of the alleged violation, the deadlock within the Board puts in issue only the proposition of whether there has been a transfer of work from a position in one seniority district to a position in still another Seniority District. Compare Awards 4076, 5091, 5413 to cite a few.

We find from the record before us that the class of work that has been assigned to the Clerk (Timekeeper) position consists of keeping and distributing the time for shop craft employes. Prior to February 16, 1953 there was about ten (10) or fifteen (15) minutes work each day assigned the position in connection with keeping time for three (3) outside hostlers and three (3) outside hostler helpers. Hostler positions are not identified with shop crafts but belong to enginemen in yard and road service.

The outside hostlers and helpers had been making out Hostler's Time Card, Form 928, at the completion of each tour of duty, showing the assignment and time worked. These cards were turned over to the office of the

Mechanical Superintendent, where they were checked and posted on time sheet, Form 927, as a part of the regular duties of the Clerk (Timekeeper) position. At the close of the pay period Form 927 was sent to the Accounting Department for further handling and completion of payroll.

For the period in dispute Forms 927, and 928, have not been used. Instead the hostlers and hostler helpers have been reporting their time on Form 388, the same as others of their craft. That form goes to the office of the Vice President and General Manager, where the Timekeeper processes the time slips in the same way as that for handling those of other enginemen in road and yard service.

For our purposes, we should not lose sight of the fact that there is more to classification of work than that which amounts to detail and routine duties of a position, else there would be fewer positions under these Agreements. In the instant case the parties agreed on more than one Timekeeper position and have evaluated each position for pay and other purposes of the contract in terms of job content, work load, and responsibilities attaching to the position.

One of the positions has been made subject to all rules of the Agreement and the other is partially excepted and we think we know the reason. The greater responsibility rests with the partially excepted position, no small part of which has to do with proper application of the wage schedule of all craft Agreements. It is now being said, in effect, that Carrier is without rights to utilize to the best advantage, that greater knowledge that is being compensated for in the partially excepted position, because some detail of keeping time for a small number in an unrelated craft has been included for a time in the duties of a Clerk (Timekeeper) position for shop crafts.

We do not find any evidence in this docket of what amounts to a change in job content, shift in work load, or transfer of responsibility between positions. At most there has been an elimination of detail and routine duties for one position, which, if not carried further, in no way tends to weaken that position or to threaten the job security and job protection for which the seniority rules of the Agreement were fashioned. See Awards 7349, 7350, in companion dockets.

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: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 7th day of June, 1956.