

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Edward F. Carter, Referee**

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**PARTIES TO DISPUTE:**

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

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood that—

(a) The Carrier violated the Clerks' Agreement on Saturday, October 17, 1953, when it utilized the services of J. M. Sanders an unassigned clerk to relieve C. Y. Coffing, Yard Clerk Position 527 at Baton Rouge, Louisiana, on one of his designated rest days.

(b) That C. Y. Coffing, the regular assigned incumbent of position 527, he compensated for wage loss sustained on Saturday, October 17, 1953, representing eight hours' pay at the punitive rate. (pro rata rate of position, \$14.54.)

**EMPLOYEES' STATEMENT OF FACTS:** The clerical positions at Baton Rouge involved in this dispute are as follows:

No. 147	Mable Smith	\$14.03	8:00 A. M.-4:00 P. M.	Monday-Friday
No. 527	C. Y. Coffing	\$14.54	7:00 A. M.-3:00 P. M.	Monday-Friday

Position 527 was designated by Carrier as one where the nature of the work is such that the employe will be needed six days each week, namely Mondays to Saturdays, inclusive. Coffing's designated rest days were Saturday and Sunday, relief was furnished on Saturday by unassigned employes.

Prior and subsequent to date of claim (October 17, 1953) Sanders was an unassigned employe.

On October 16, 1953, Mr. Sanders having no regular assignment was assigned to a short vacancy on Position 147, vacant due to Mrs. Smith being absent from duty for reason of no consequence here.

On Saturday, October 17, 1953, Mr. Sanders relieved Mr. Coffing on one of his designated rest days. This necessitated Sanders beginning his tour of duty on Position 527 twenty-three hours from the beginning of his previous assignment on Position 147.

authority of the Board to add anything to the existing agreement between the parties.

The Board's attention is directed to the fact that on Saturday, October 17, two vacancies existed and two qualified extra clerks who did not have forty hours of work that week were available to fill them. Either extra clerk Sanders or extra clerk Henderson would have filled the vacancy on position 527, and Clerk Coffing, the claimant in this case would not have been used in any event; in fact, it would have been improper to use him and thus deprive either extra clerk Sanders or extra clerk Henderson of the right to perform extra work. Claim for Clerk Coffing is apparently founded on his status as the regular five-day incumbent of position 527, on the theory that in the absence of the regular relief clerk and no qualified extra clerk being available, Coffing would have been used on his rest day to fill position 527. The lack of applicability of this theory is due to the fact that an extra clerk, Sanders, was available; even if the Carrier considered Sanders not available by reason of not having been off duty sixteen hours when the vacancy on position 527 began at 7 A. M. on October 17, Coffing would have nevertheless not been used because another qualified extra clerk, Henderson, was available to fill the vacancy. There is no sound or logical basis for claim for Clerk Coffing. To sustain his claim would in effect be to hold that he was entitled to be used, when actually it would have been improper to use him in derogation of the rights of either or both extra clerks who were available.

It is the position of the Carrier that no rule of the agreement requires an extra clerk to take sixteen hours off duty between assignments, nor is there any existing practice on the property which would place this limitation on the rights of extra clerks to work. There has been no violation of the agreement nor of any established recognized practice or custom. Consequently there is no basis for this claim, and it should be denied.

All data in this submission have been presented to the Employes and made a part of the question in dispute.

(Exhibits not reproduced)

**OPINION OF BOARD:** Claimant occupied Position No. 527 at Baton Rouge, Louisiana, assigned 7:00 A. M. to 3:00 P. M., Monday through Friday. There was another position designated as No. 147 occupied by Mable Smith assigned 8:00 A. M. to 4:00 P. M., Monday through Friday. Both positions were 7-day positions and each had rest days of Saturday and Sunday. On Saturday, October 17, 1953, there was a vacancy on the rest day of both positions. There were two extra men available. Carrier used J. M. Sanders, the senior of the two on Position No. 527 and J. K. Henderson on Position No. 147. Sanders had worked Position No. 147 on Friday, October 16, 1953, so that when he was used on Saturday, October 17, 1953, he began work at 7:00 A. M., one hour before the end of the 24 hour day beginning at 8:00 A. M. on October 16, 1953. Claimant, the regular occupant of Position No. 527 contends that Sanders was not properly used and that he should have been called on an overtime basis. It will be here noted that the rest days of Position No. 147 were included in a relief position while the Saturday rest day of Position No. 527 was a tag-end rest day classified as an unassigned day. The rule governing work on unassigned days provides:

"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 employe who will otherwise not have forty (40) hours of work that week; in all other cases by the regular employe." Rule 37 (f), current Agreement.

There is no dispute that Sanders had not worked 40 hours in his work week. The sole question appears to be: Was Sanders available after he had worked 8 hours within the 24 hours in which the unassigned rest day

work arose. In this respect, nothing is said in the rule that extra men may not be used on unassigned rest days at overtime rates. The only stated condition is that the extra man shall not have worked more than 40 hours in a work week. See Award 6559. It is subject to no other construction. The word "available" as used in the rule means subject to use or disposal. We find nothing in this rule from which we can infer that it means also that an extra clerk could be used only if he was subject to this pro rata rate of pay. We find nothing in the claimed practice on this Carrier as to the performance of work on unassigned days in conflict with the present holding.

**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 28th day of June, 1956.