

Award No. 9486

Docket No. CL-8733

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

a. The Carrier violated the Agreement in the Office of Auditor of Passenger Accounts, Atlanta, Georgia, from June 9, 1955, through June 27, 1955, when employes not covered by the Agreement performed a total of 72 hours and 35 minutes work regularly assigned to the Claimant, Mr. R. H. Clark, and

b. Claimant, Mr. R. H. Clark, shall now be compensated at rate of time and one-half for 72 hours and 35 minutes because of the violation stated in part (a).

EMPLOYES' STATEMENT OF FACTS: Claimant, Mr. R. H. Clark is employed in the office of Auditor of Passenger Accounts, Atlanta, Georgia. The office constitutes a separate seniority district. Claimant Clark occupies the position of Machine Operator fully covered by the Agreement. His duties are to operate several types of I.B.M. equipment.

The organization of the office is as follows:

"Official" Auditor of Passenger Accounts
 Assistant Auditor of Passenger Accounts

"Excepted" Chief Clerks (3)
 Secretaries (3)

"Fully Covered" Head Clerks (7)
 Clerks (81)
 Ticket Assorters (4)
 Messengers (1)
 Porter (1)

All pertinent facts and data used by the Carrier in this case have been made known to the Employee representatives.

(Exhibits not reproduced)

OPINION OF BOARD: Careful consideration of the record discloses that the validity of this claim turns on a sharp factual dispute as to the nature of the work performed by the official and excepted employees. The record does not furnish any basis for resolving this conflict of fact. See Awards 4068, 6367, 6430, 8431, 9046, 9324. Accordingly, the claim will be dismissed.

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 Employee involved in this dispute are respectively Carrier and Employee 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 claim shall be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1960