

Award No. 9682

Docket No. CL-9511

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank Elkouri, Referee

PARTIES TO DISPUTE:

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

WABASH RAILROAD COMPANY

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

1. Carrier violated the rules of the Schedule for Clerks effective May 1, 1953, when the Agent at Kirksville, Missouri, Mr. H. L. Southern, was permitted or required to perform the duties of a clerical assignment designated as Freight Clerk, on Thanksgiving Day, Thursday, November 24, 1955 and other legal holidays and Saturdays enumerated in Section (2) of this statement of claim.

2. Ivan R. Pierce, regularly assigned to position designated as Freight Clerk at the Freight Station, Kirksville, Missouri, shall be compensated for a call of two (2) hours at overtime rate of his assignment on Thanksgiving Day, Thursday, November 24, 1955; Saturday, November 26; Saturdays, December 3, 10, 17, 24 and 31, 1955; Saturdays, January 7, 14 and 28, 1956; Saturday, February 11; February 22, Washington's Birthday; Saturday, February 25; Saturdays, March 10 and 24; Saturdays, September 15 and 22; Saturday, October 27, 1956 and each Saturday or legal holiday subsequent to October 27, 1956 on which the Agent performs clerical duties of similar class and kind to those as specified in the time claims presented by Freight Clerk Pierce, which claims are made a matter of record with the Carrier, until such time as the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: Prior to September 1, 1949, effective date of the Forty Hour Week Agreement, the position of Freight Clerk was a six (6) day assignment, 8 hours per day and Saturday was a regular assigned work day for the Freight Clerk.

Regular assigned clerical force at Kirksville Freight Station as of November 24, 1955, date on which the initial claim for a call was presented by Clerk Pierce, consisted of two (2), five day positions, Monday through Friday.

Cashier

rate

\$14.90 per day

[583]

OPINION OF BOARD: This case is to be distinguished from that covered by the Board's Award 9681 in that the Agent was assigned a work week of Monday through Saturday and on Saturdays he performed the same class of work that he performed both prior to and subsequent to the 40-Hour Work Week effective September 1, 1949.

There is conflict in the Record relative to the work in dispute which allegedly was performed by the Agent on certain specified holidays. This Board has no method by which it can resolve conflicts in evidence.

In view of the above considerations the Claim must be denied.

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 Claim should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 7th day of December, 1960.