

Award No. 12683

Docket No. CL-12464

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, Referee

PARTIES TO DISPUTE:

**RAILROAD DIVISION, TRANSPORT WORKERS UNION
OF AMERICA, A. F. L. - C. I. O.**

DONORA SOUTHERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim involves Allan Farquhar, Storehouse Keeper: Request that Allan Farquhar, Storekeeper be paid at time and one-half rate of pay for each hour worked on the following dates: Nov. 16, 17, 18, 19, 20, 25, 27, 30 and Dec. 1, 1959. Worked two and one-half hours on each date. Since Allan Farquhar who is not a relief clerk was used as one on the above dates by the management the Company thereby violated Rules 5 and 1 of the clerks agreement and violated the standard procedure as stated by the company in their denial of Clerks Claims #1-56 and #3-56.

EMPLOYEES' STATEMENT OF FACTS: This claim originated at Donora, Pa., and is known as Clerks Claim #1-60.

Allan Farquhar is the Storehouse Keeper and as such has no rights to perform any other work of any other clerk in another department only his own work in his own department.

On the days mentioned above he did perform work that should have been done by the relief clerk and thereby the agreement was violated as to Rules 5 and 1.

Also standard procedure as stated by the Company in their denial of Clerk Claims #1-56 and #3-56 (Employes Exhibits "A" and "B") make this claim a claim that should be paid by the carrier.

The Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective July 16, 1953 and revised October 1, 1957, covering Clerical, Office, Station and Storehouse employes with the Donora Southern Railroad Company a copy of which is on file with the Board and is by reference hereto made a part of these Statement of Facts.

POSITION OF EMPLOYES: That Allan Farquhar held a regular position

instant claim, that being, a General Relief Clerk whose assignment is to fill vacancies however created, while filling such vacancies, is not subject to any other portion of his dual assignment. The mere assertion that the Carrier violated a standard procedure, without evidence, cannot be considered pertinent.

And finally, by no stretch of the imagination, can the Overtime Rule be strained to permit payment at the time and one-half rate for clerical work performed by a clerk during his regular assigned tour of duty and for which he has already been paid at straight time rate.

For the foregoing reasons, it is respectfully submitted that this claim must be denied.

OPINION OF BOARD: Claimant was assigned to a position of Storekeeper. On the dates set out in the claim, he performed some miscellaneous work of a Stenographer-Clerk who was filling vacancy of a Crew Caller. He performed this miscellaneous work in addition to his regular duties as a Storekeeper.

There is no dispute that the position of Stenographer-Clerk included filling vacancies. Bulletin No. 131 dated May 9, 1958, described the duties of the Stenographer-Clerk position as follows:

"Taking shorthand and transcribing same; general clerical duties as may be assigned; Crew Caller relief; help in Storeroom when necessary and fill vacancies however created, i.e., vacations, sickness, etc. of Crew Callers and Storekeeper, and whatever other duties as may be assigned."

Claimants occupied a Group 1 position. There is nothing in Rule 1, Scope which prohibits Claimant from performing the miscellaneous work of the Stenographer-Clerk on the days in question. All of the work involved was performed by employees covered in the Agreement.

Claimant was not required to suspend work to absorb overtime as provided in Rule 5. Both Claimant and the Stenographer-Clerk worked their respective positions on the involved dates during their regular hours of assignment.

There is no merit to the claim. See Award 11655.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1964.