

**Award No. 13490**  
**Docket No. CL-13165**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

John H. Dorsey, Referee

**PARTIES TO DISPUTE:**

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

**SOUTHERN PACIFIC COMPANY (PACIFIC LINES)**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-5086) that:

(a) Carrier violated the Rules of the Clerks' Agreement at Yuma, Arizona, when on May 16 and May 23, 1960, it required and/or permitted Mr. J. H. Clepper, Storekeeper, to suspend work on his position for the purpose of performing service on position of Truck Driver outside the regular assigned hours of the incumbent thereof, Mr. C. H. McGlocklin, and

(b) Carrier shall now be required to allow Mr. C. H. McGlocklin one hour's additional compensation for May 16, 1960, and two hours' additional compensation for May 23, 1960, at the time and one-half rate of his position.

**EMPLOYEES' STATEMENT OF FACTS:** There is in evidence an Agreement bearing effective date October 1, 1940, reprinted May 2, 1955, including revisions, (hereinafter referred to as the Agreement) between the Southern Pacific Company (Pacific Lines) (hereinafter referred to as the Carrier) and its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees (hereinafter referred to as the Employees) which Agreement is on file with this Board and by reference thereto is hereby made a part of this dispute.

At the time of this dispute the Stores Department force at Yuma consisted of the following positions and employees:

Position	Rate of Pay	Hours	Rest Days	Incumbent
Storekeeper No. 103	\$21.24 Daily	7 AM-4 PM	Sat. & Sun.	*J. H. Clepper
Truck Driver	\$2.3675 Hourly	6 AM-2:30 PM	Sat. & Sun.	C. H. McGlocklin
§Relief Clerk	Various	Various	Thurs. & Fri.	F. B. Smith

§Relieves Truck Driver Saturday and Sunday, works as laborer Monday, Tuesday and Wednesday.  
\*Temporarily assigned to position account regular incumbent L. R. McGlocklin off sick.

Duties of the Storekeeper are to maintain stock of materials and supplies and exercise supervision of the Stores Department force.

Duties of the Truck Driver are to pick up and deliver materials and sup-

for claim submitted, which Carrier denies, nevertheless the contractual right to perform work is not the equivalent of work performed. That principle is well established by a long line of Awards of this Division, among them: 6019, 6562, 6750, 6854, 6875, 6974, 6978, 6998, 7030, 7094, 7100, 7105, 7110, 7138, 7222, 7239, 7242, 7288, 7293, 7316, 8114, 8115, 8531, 8533, 8534, 8568, 8766, 8771, 8776, 9748 and 9749.

### CONCLUSION

Carrier has conclusively shown herein the claim is unwarranted and totally lacking in merit, and asks that it be denied.

(Exhibits not reproduced).

**OPINION OF BOARD:** At the time of this dispute Carrier's Stores Department force at Yuma, Arizona, consisted of the positions of Storekeeper and Truck Driver. The rate of pay of the Storekeeper was \$21.24 per day, with hours from 7:00 A. M. to 4:00 P. M. The Truck Driver date of pay was \$2.3675 per hour with assigned hours from 6:00 A. M. to 2:30 P. M.

On May 16, 1960, at 2:00 P. M. the Storekeeper was notified that bearings, packing and wedges for journal boxes were required by the Car Department at the Rip Track. The Truck Driver, Claimant herein, was not available at that time. He returned at 2:30 P. M., the quitting time of his assignment, and quit. The Storekeeper then took the truck, loaded and delivered the materials aforementioned, completing the work at 3:30 P. M.

On May 23, 1960, at 3:00 P. M. the Storekeeper was notified that Caboose 1006 needed to be washed and supplied—this was after the Truck Driver had quit for the day. The Storekeeper took the truck, loaded it with supplies, drove to the caboose, washed the caboose and stored the supplies on it. He completed the work at 5:30 P. M.

Petitioner contends that: (1) work of the nature here involved had not in the past been assigned to the Storekeeper; and (2) on both occasions the work should have been assigned to the Truck Driver and he should have been compensated at the overtime rate of pay. Specifically, it avers that Carrier violated Rule 22 of the Agreement which reads:

#### "Absorbing Overtime

##### "Rule 22.

"Employees shall not be required to suspend work during regular hours to absorb overtime."

Carrier avers that there is no provision in the Agreement which prohibited it from assigning the work to the Storekeeper; and, there is no provision in the Agreement which vested the Truck Driver with the right to the work.

We find no provision in the Agreement which prohibited Carrier from assigning the work to the Storekeeper. Therefore, whether or not the Storekeeper had been assigned such work in the past is immaterial.

Since the assignment of the work to the Storekeeper was a valid exercise of an uninhibited management prerogative, Rule 22 is not relevant. We will deny the Claim.

**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 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 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 27th day of April 1965.