

Award No. 14218
Docket No. CL-14556

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur Stark, 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-5441) that:

(a) Carrier violated the Agreement between the parties at Portland, Oregon, effective May 29, 1961, when it attached duties of Assistant Cashier to Position No. 12, Teller, Portland Freight Station, and required the incumbent thereof, Mrs. G. V. Carner, to perform such work at Teller's rate of pay; and,

(b) Carrier shall now be required to allow Mrs. G. V. Carner the difference between rates of Teller and Assistant Cashier May 29, 1961, and each date thereafter that she is required to perform duties of Assistant Cashier while assigned to and compensated at the rate of Position No. 12, Teller.

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.

1. On November 17, 1959, Carrier filed application with the Public Utility Commission of Oregon to withdraw its agency at the Park Street Station in Portland, Oregon. Carrier stated that the business handled did not warrant retention of the agency and it proposed to handle the business of Park Street Station at Brooklyn Station, 4.2 miles distant, where a new and modern building was constructed with facilities to accommodate the employees transferred thereto. Permission was granted.

It will be readily noted that the above work was, with exception of that performed by the Accountant, which required about 40 minutes' time, work which was formerly performed by employees of a lower-rate classification at Park Street Freight Station for many years. None of the work listed has ever been considered work allocated exclusively to an Assistant Cashier position. To the contrary, it is Carrier's position that such work may and has always been performed by employees whose positions are within same or higher-rate classification of those employees performing the work as indicated on the above list. With respect to 40 minutes of work appearing on the above list which was performed by the Claimant during period of claim that was formerly performed by the higher-rated Accountant prior to the consolidation, this is not work allocated exclusively to an Accountant, but is work performed by an employee occupying a position of same or lower-rated classification at other locations on the property in keeping with long standing practice in effect on this property throughout the life of the current agreement and for many years prior thereto.

By letter dated May 29, 1961 (Carrier's Exhibit B), Petitioner's Division Chairman presented claim to Carrier's Division Superintendent in behalf of Claimant "... for rate of pay of Assistant Cashier, for date May 29, 1961, and for each subsequent date . . .", which Claimant was allegedly required to perform duties of Assistant Cashier. By letter of July 26, 1961 (Carrier's Exhibit C), the latter denied the claim, advising that the duties performed by the Claimant did not justify rate of pay of Assistant Cashier.

By letter dated September 23, 1961 (Carrier's Exhibit D), Petitioner's General Chairman appealed the claim to Carrier's Assistant Manager of Personnel, and by letter dated April 24, 1962 (Carrier's Exhibit E), the latter denied the claim, stating that Claimant's position is properly classified and paid agreed-upon rate of pay for such classification at location involved and that there has been no change in nature of duties and responsibilities that would justify increasing rate of pay thereof.

(Exhibits not reproduced.)

OPINION OF BOARD: On June 27, 1960 Carrier consolidated the freight stations at Park Street and Brooklyn (both in Portland, Oregon) into a single facility designated as Portland Freight Station. Until then, Rule 30 of the May 2, 1955 Agreement called for three Rosters in the Portland Division. Roster 2 included All Yard, Station, Motive Power and Car forces, except employees covered by Roster No. 1 and Park Street Freight Station; Roster 3 covered employees at Park Street Freight Station. In their May 19, 1960 Memorandum of Agreement the parties amended Rule 30 so as to eliminate Roster 3. They also agreed to combine Rosters 3 and 2 "to establish revised Roster 2" and established procedures for accomplishing this, including, initially, the abolishment of 54 positions at Park Street and 21 at Brooklyn. Carrier asserts that the 54 Park Street jobs included a five-man cashier's force, composed of a cashier, accountant, assistant cashier, overcharge clerk and machine operator. (Petitioner asserts that neither the overcharge clerk or machine operator were part of the cashier force.) At Brooklyn the 21 jobs included one cashier and seven assistant cashiers.

Following the consolidation, 65 positions were established at Portland Freight Station, including (according to Carrier) a nine-man cashier's force consisting of one Cashier, one Accountant, two Assistant Cashiers, four Tell-

ers and one Overcharge Clerk. (Petitioner asserts that the Overcharge Clerk was not part of this force.) Claimant, Mrs. G. V. Carner, had been one of the seven Brooklyn Assistant Cashiers (Position No. 43), rate \$18.02 per day. (The former Park Street Assistant Cashier, Position No. 12, had received \$19.18 per day.)

Under the initial organization at Portland Freight Station, Assistant Cashier Positions Nos. 8 and 9 received \$19.18 per day; Teller Positions Nos. 10, 11, 12 and 14 received \$18.46 per day. Claimant was placed in Teller Position No. 12.

Effective May 29, 1961 certain work was removed from Assistant Cashier Position No. 8 and transferred to Teller Position No. 12 (e.g., to Claimant). The rate differential then was still 72 cents a day (although daily rates had been raised to \$20.94 and \$20.22, respectively). Petitioner states that these new duties required an average of six hours' work per day; Carrier asserts they required approximately four hours and forty-five minutes. On March 20, 1962 these duties were transferred back to Assistant Cashier Position No. 8. During this ten-month period, some of Claimant's regular Teller work was transferred from her to the other Tellers in order to give her time to perform the work taken from Position No. 8.

Petitioner asserts that Claimant should have received the rate of Assistant Cashier during the ten-month period since she assumed three-fourths of the work load of Position No. 8. Carrier states that the change in the nature of her duties and responsibilities did not justify an increase in rate.

The basic question is whether, during the period involved, Claimant actually performed higher-rated work attached to the higher-rated position (Award 4567). It should be noted, preliminarily, that there was a relatively small rate differential (only 72 cents a day) between Teller and Assistant Cashier. Moreover, Claimant actually received more as a Teller, after the consolidation, than she had previously received as an Assistant Cashier. Additionally, there had been a \$1.16 daily differential between pre-consolidation Assistant Cashier rates at Brooklyn and Park Street (the reason for which is unexplained). These facts point up the difficulty of determining which Position No. 8 Assistant Cashier duties represented higher-rated work than assigned Teller duties.

Without restating the evidence in detail, the following significant items may be noted:

1. When the new Teller position was established there was no specification of job duties.
2. There is no evidence concerning the reasons for setting the new Teller's rate higher than the old Brooklyn Assistant Cashier rate, and just a little under the new Assistant Cashier rate.
3. The disputed duties were performed at Brooklyn, prior to the consolidation, by an employee whose rate was lower than that of the Assistant Cashier in Position No. 8 (in the consolidated operation) and lower than that of Teller as well. (The fact that such employee had the title of Assistant Cashier cannot, in itself, be deemed controlling.)

4. A substantial proportion of the disputed duties had been performed at Park Street, prior to the consolidation, by employees with rates lower than that of Assistant Cashier, including Cashier's Clerk and Bill Clerk. (There is a dispute in the record concerning what work the Overcharge Clerk did in connection with Form 934.)

5. There is no convincing evidence that the Assistant Cashier at Park Street, before consolidation, performed any of the disputed work except for posting on Form 874.

In view of these facts, it cannot be said that the disputed work, generally speaking, was work which the parties, by agreement or practice, had recognized as commanding a rate higher than that accorded to the Teller position. There is one task, however, in Petitioner's list of duties which was formerly performed by a higher-rated Accountant: preparing Form 420. But, Carrier estimated the average daily time required to accomplish this task as ten minutes, and Petitioner has not specified a figure. (Form 9938 was also completed at Park Street by an Accountant, according to Carrier, although this Form was not mentioned in Petitioner's papers. The average daily time consumed averaged thirty minutes, Carrier states.) In any event, there is no persuasive evidence that work connected with these forms represented the basis for the Assistant Cashier-Teller rate differential, after consolidation. Moreover, as already noted, such work had been previously performed by an employee in a lower-rated position at Brooklyn (and elsewhere, as well, according to Carrier).

In light of all these circumstances, it is our conclusion that this claim cannot be sustained.

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 the Agreement has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of March 1966.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.