

Award No. 14637
Docket No. MS-15268

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

STEVE C. FILUT

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Payment of overtime worked on Saturdays, Sundays and Holidays for which I received no remuneration.

Attached is statement showing the actual number of overtime hours worked, namely, 1,216½ and total compensation due, amount \$5,584.98. (See Exhibit No. 1)

EMPLOYEE'S STATEMENT OF FACTS: I have been employed in the Car Department of the Milwaukee Road at Milwaukee Shops continuously since 8-2-15. I have held supervisory clerical positions for over 45 years, and am carried on Clerical Seniority Roster No. 58 of 7-1-64 as Chief Clerk to the Superintendent of Car Department with a seniority date of 8-2-15. My date of birth is 7-22-99.

I am not now and have never been a member of the Brotherhood of Railway Clerks, and the position I occupied is not subject to the application of the following rules contained in the Agreement between the Carrier and the Brotherhood, and which Agreement is effective 9-1-49.

Rule 7. Promotion.

Rule 8. Time in Which to Qualify

Rule 9. Bulletined Positions

Rule 12. (a) 2nd par. — Abolishing Bulletined Position

Rule 14. (b) 2nd sentence — Position will be considered new
when starting time or rest days are changed.

My position, however, is subject to the application of Overtime Rule No. 32.

Although my rate of pay was based on a work week of forty (40) hours, I have in addition to the forty (40) hours, been required to work on specified Saturdays, Sundays and Holidays since September, 1949, up to and including July 12th, 1964, for which time I received no remuneration.

CARRIER'S STATEMENT OF FACTS: The instant claim, for reasons that will be fully explained in "Position of Carrier", has not been properly

handled by the claimant in accordance with the provisions of Article V of the Agreement of August 21, 1954, Section 3 First (i) of the Railway Labor Act and/or Circular No. 1 of the Board; therefore, the instant claim is barred.

Prior to September 4, 1964, claimant Filut was the occupant of the monthly rated position of Chief Clerk to Superintendent-Car Department at Milwaukee, Wisconsin, which position is within the scope and application of the Clerks' Agreement.

The last date Mr. Filut actually performed service for the Carrier was August 12, 1964. On August 13 and 14, 1964, he was absent account illness. From August 17 through September 4, 1964, Mr. Filut was on vacation. Since September 4, 1964, which was, as stated, the last date of Mr. Filut's vacation, he has performed no service for the Carrier.

Effective December 23, 1964, Mr. Filut relinquished his right to return to Carrier's service under the retirement provisions of the Railroad Retirement Act.

There is attached hereto as Carrier's Exhibit A, copy of letter written by Mr. S. W. Amour, Assistant to Vice President, to Mr. Steve C. Filut, claimant, under date of November 10, 1964.

(Exhibits not reproduced.)

OPINION OF BOARD: While there are several defects in Claimant's position, suffice it to say that his first claim letter was addressed to Carrier more than 60 days subsequent to the last day for which claim is made. This disqualifies the claim under Article V of the Agreement of August 21, 1954, and it is accordingly dismissed.

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 claim was not processed in compliance with the Agreement of August 21, 1954.

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 1966.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.