

Award No. 14681
Docket No. CL-15430

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5700) that:

(1) Carrier violated the Clerks' current Agreement at East St. Louis when it instructed Yard Clerks, Messrs. A. A. Brown, T. L. Sims, W. A. Rainey, H. Poepping and A. M. Cooper to perform Interchange work without the proper compensation.

(2) That Claimants and/or their successors, be compensated the difference in the rate of Yard Clerk, rate \$20.09, and that of Interchange Clerk, rate of \$20.80. This compensation to begin February 18 and February 20, 1964, and for all subsequent dates on which a like violation occurs.

EMPLOYEES' STATEMENT OF FACTS: On February 18, 1964, and February 20, 1964, Claimants were instructed by Chief Clerk Roy Hartley, upon instruction from Agent E. G. Rauch, East St. Louis, that each Yard Clerk at East St. Louis would be expected to do interchange work which was ordinarily performed by the Interchange Clerk. Claimants were instructed to make the interchange on the Northbound trains, work up interchange of receipts of cars and make up cards on inbound trains.

Prior to February 18, 1964, the Interchange Clerks were given a call to perform the necessary work on overtime, then effective February 18th Carrier required the Yard Clerks to perform work which was by assignment assigned to Interchange Clerks.

This claim has been properly presented and progressed in accordance with the applicable rules of the Clerks' Rules Agreement. A claim for each Claimant was originally filed with the Agent and to the General Superintendent by the Local and Division Chairman. When claim was appealed by the General Chairman an agreement was reached with Carrier whereby the Claimants would all be named in one claim. (Employees' Exhibit No. 1) To make our file as brief as possible, we will only use exhibits showing claim filed with the First Assistant Manager of Personnel and Manager, along with confirmation of conference. (Employees' Exhibits 1 through 7)

Therefore, in February 1964, Agent Rauch assigned to yard clerks the duty of assisting interchange clerk in routine work during periods yard clerks were not otherwise employed.

The work involved consisted principally of preparing some of the car cards for cars in the incoming trains for attaching to cars for switching purposes, and assist in checking back some of the interchange (transfer list) covering cars which previously had been delivered to the Cotton Belt.

As result of this change in assignment claim was filed for 5 yard clerks on first shift alleging they were required to perform interchange clerk work without the proper compensation.

The claims were denied.

The applicable schedule agreement is that reprinted January 1, 1963, copies of which are on file with the Board.

Exhibits 1 to 7 inclusive, are attached and made a part hereof.

(Exhibits not reproduced.)

OPINION OF BOARD: It is undisputed that on February 18 and 20, 1964, Claimant Yard Clerks were instructed to perform work encompassed within the duties of the higher rated Interchange Clerk classification. The issue is whether Claimants are entitled to the Interchange Clerks rate for time spent in performance of that work.

The pertinent provision of the Agreement is:

"RULE 40.

PRESERVATION OF RATES

40-1. Employees temporarily or permanently assigned to higher rated positions shall receive the higher rates while occupying such positions; employees temporarily assigned to lower rated positions shall not have their rates reduced.

40-2. A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the position during the time occupied, whether the regular occupant of the position is absent, or whether the temporary assignee does the work irrespective of the presence of the regular employee. Assisting a higher rated employee due to a temporary increase in the volume of work does not constitute a temporary assignment."

Carrier admits that: (1) the work had formerly been performed by the Interchange Clerk on a call basis; and (2) Claimants were responsible for the work they performed. Its defenses are that: (1) the Yard Clerks did not perform all the duties of Interchange Clerk; and (2) in no manner did the added duties require the skill, knowledge or responsibility Interchange Clerks require to handle their position.

Clerks admit that Claimants did not perform all the duties of Interchange Clerk.

Rule 40 does not contemplate and require an employe to perform all the duties of a higher rated position before being entitled to the higher rate. Nor does it contain any exception predicated on comparison of skill and knowledge required as between the duties of the higher rated position performed and those not performed. It is enough that the duties performed are duties of the higher rated position. Cf. Award No. 4669. We will sustain paragraph 1 of the Claim. As to paragraph 2 of the Claim we find that the claim as handled on the property was for the difference in rates of pay for time actually worked in performance of the duties of the higher rated position. We sustain the prayer for compensation only to that extent.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier violated the Agreement.

AWARD

Claim sustained to the extent set forth in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1966.