Award No. 14750
Docket No. CL-15363

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bernard E. Perelson, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5674) that:

(1) The Carrier violated and continues to violate the rules of the Clerks' Agreement effective December 1, 1956, except as amended, when it arbitrarily and unilaterally abolished the positions hereinafter referred to at Columbus, Georgia Yard Office on March 9, 1964—a total of thirteen (13) positions and on the same date established eleven (11) other positions in lieu of the abolished thirteen (13) positions and assigned to the eleven (11) "newly established" positions meal periods as specified therein and failed and refused to adequately list the duties thereof as required by the rules of the Agreement; and,

(2) The Carrier shall now be required to assign eight (8) consecutive hours without meal period as constituting a day's work and allow twenty (20) minutes in which to eat without deduction in pay to the positions not so assigned, and also to adequately describe the duties attendent upon each position; and,

(a) R. M. Bentley shall now have his duties more fully set forth and shall be paid thirty (30) minutes penalty overtime from March 9, 1964 until he is properly allowed twenty (20) minutes in which to eat without deduction in pay—he being the successful bidder on Position No. 1; and,

(b) W. R. Chalkley shall now have his duties more fully set forth and shall be paid one (1) hour penalty overtime from March 9, 1964 until he is properly allowed twenty (20) minutes in which to eat without deduction in pay—he being the successful bidder on Position No. 2; and,

(c) B. W. Lloyd shall now have his duties more fully set forth and shall be paid one (1) hour penalty overtime from March 9, 1964 until he is properly allowed twenty (20) minutes in which to eat without deduction in pay—he being the successful bidder on Position No. 3; and,

(d) Relief Clerk No. 2, T. S. Green shall now have his duties more fully set forth and shall be paid one (1) hour's penalty overtime for each Saturday, Sunday, Monday and Tuesday from March 9, 1964 until he is properly allowed twenty (20) minutes in which to eat without deduction in pay—he having been the successful bidder on Position No. 9; and that

(3) Clerks R .M. Bentley, Position No. 1; W. R. Chalkley, Position No. 2; B. W. Lloyd, Position No. 3; J. F. Durham, Position No. 4; R. D. Gibson, Position No. 5; W. P. Greene, Jr., Position No. 6; B. E. Locklier, Position No. 7; C. J. Alford, Jr., Position No. 8; T. S. Green, Position No. 9; D. J. McManious, Position No. 10; T. J. Attaway, Position No. 11, and/or their successor(s) in interest, if any, shall be paid a three (3) hour call from March 9, 1964 and continuing thereafter until the duties are properly shown on all of these positions; and,

(4) The successor, or successors, in interest, if any, of all of the above-named employes, shall be paid in like manner; and,

(5) The Carrier's records shall be jointly checked with the General Chairman to determine the extent of the compensation due to each of the above-referred-to employes.

EMPLOYES' STATEMENT OF FACTS: For many years before the Brotherhood was certified as the representative of the craft or class of clerical and related employes on June 8, 1940 and up until March 2, 1964, all of the Yard Clerks' assignments at Columbus, Georgia Yard Office had generally been considered, since they were continuous operation positions, as requiring continuous hours with a twenty (20) minute lunch period in which to eat and without deduction in pay. In brief, all of these positions had been assigned in accordance with the present conditions set forth in Rule 30-MEAL PERIOD, Paragraph (d). From time to time there had been sporadic efforts to give a thirty (30) minute or possibly an hour meal period to some of the positions but when same was protested by the Local or System Committee, the matter would be corrected forthwith with the result that never heretofore had it been necessary to present or progress a formal claim in connection therewith.

However, notwithstanding the mutually satisfactory condition that had prevailed at Columbus, Georgia Yard Office for at least twenty-four (24) years, under date of March 2, 1964, the Carrier, without conference and/or agreement, arbitrarily and unilaterally abolished a total of thirteen (13) positions as is set forth in its bulletin of that date, the abolishment to be effective as of the close of work day, Monday, March 9, 1964, copy of which bulletin is self-explanatory and is hereto attached and identified as Employes' Exhibit No. 1.

Also, under date of March 2, 1964, the Carrier, without conference and/or agreement, arbitrarily and unilaterally advertised a total of eleven (11) positions in lieu of the thirteen (13) abolished positions and copy of this bulletin, which is self-explanatory, is hereto attached and identified as Employes' Exhibit No. 2.

March 5, 1964, the General Chairman, accompanied by Vice General Chairman R. D. Gibson, held a conference with the Superintendent's Chief Clerk and then Terminal Trainmaster C. G. Rutland (who has since been discharged from the service of the Carrier); outlined the violations in connection with the above referred to Bulletin (Employes' Exhibit No. 2) and requested compliance with the Clerks' Agreement, both with respect to properly showing the

Also on July 30, 1964, Superintendent Bishop issued a proper bulletin notice advertising eleven clerical positions in Columbus, Georgia Yard—see CARRIER'S EXHIBIT NO. 5 attached hereto.

Under date of August 3, 1964, Superintendent Bishop issued a bulletin notice correcting the Monday and Tuesday hours of Position No. 9, Relief Clerk No. 2. Copy of that bulletin notice is hereto attached as CARRIER'S EXHIBIT NO. 6.

By letter notice of August 7, 1964, Superintendent Bishop notified the successful bidders for the eleven positions—see CARRIER'S EXHIBIT NO. 7 attached hereto.

In abolishing the positions on both occasions, and re-establishing them by bulletin on both occasions, the Superintendent in good faith literally complied with all rules of the effective agreement and followed past custom and practice as to bulletin content. Furthermore, the hours of assignment, including meal periods, did **not** violate either the rules agreement, interpretations nor practice on this property.

The claim that was filed on March 10, 1964 by the General Chairman was denied by the Superintendent. **The amended claim** filed with the first appeals officer, Vice President Waters, was likewise denied by him. Exception was taken to, and the vague, indefinite and impoper claims were **both** declined by Carrier's Director of Personnel, as we have heretofore shown.

The next communication of record is the letter written on October 22, 1964, by Mr. C. L. Dennis, Grand President, Brotherhood of Railway Clerks, to Mr. S. H. Schulty, Executive Secretary, Third Division, National Railroad Adjustment Board, notifying the Board of the appeal by the Brotherhood of the amended "claim" shown.

The Brotherhood has failed in all handlings on the property to cite any violation of the schedule agreement. Not knowing of any rule, interpretation or practice that has been violated, the Carrier has denied the "claims" as previously described, in all handlings on the property.

The schedule agreement dated December 1, 1956, as amended, is on file with your Board, and is, by reference, made part and parcel of this dispute as though reproduced herein word for word.

OPINION OF BOARD: The Brotherhood contends that the Carrier violated the rules of the Clerks' Agreement, effective December 1, 1956, except as amended, when it arbitrarily and unilaterally abolished 13 positions at Columbus, Georgia, on March 9, 1964, and on the same date established 11 positions and assigned to the 11 positions certain meal periods and in addition failed and refused to adequately list the duties of the respective positions as required by the Agreement.

The Carrier denies that the rules of the Agreement were violated at the time is abolished the 13 position and established in their place and stead 11 positions, that the 11 positions were properly bulletined; that all the requirements of the rules were properly met and further contends that this dispute is not properly before this Board in that the claim filed on the property by the Brotherhood is entirely different from the claim originally presented and is in violation of Rule 25 of the Agreement.

The question before the Board is the interpretation and/or application of Rules 8, 23, 25 and 30, of the Agreement. They are as follows:

RULE 8—BULLETINS

"(a) New positions or vacancies will be promptly bulletined in agreed upon places accessible to all employes affected, for a period of seven (7) calendar days on Line of Road, and five (5) calendar days in general and terminal offices, simultaneously to the entire seniority district as listed in Rule No. 4. Bulletins to show location, title, qualifications, preponderating duties of position, work days, hours of service, and rate of pay. Bulletin also to show expiration date and hour. Where expiration date falls on a Saturday, Sunday or holiday, expiration date to be made the following day. Employes desiring such positions will file their applications with the designated officer within the specified time, (which means that no bids will be considered legal unless they are received at the office designated befor the expiration date and time of bulletin) sending copy to the Local and General Chairmn, and an assignment will be made within five (5) calendar days thereafter. The name of the successful applicant will immediately thereafter be posted for a period of five (5) calendar days where the position was bulletined.

"(b) Copies of line of road and terminal bulletins advertising positions will be sent to the Local and General Chairman of the respective Divisions, and copies of General Offices bulletins to the Vice General Chairman at Savannah, Georgia. Copies of awards of the positions will also be furnished in accordance with the above.

RULE 23—RULINGS

General rulings or interpretations will not be made on this agreement except in conference between the Director of Personnel and General Chairman and will not be binding until reduced to writing."

RULE 25—TIME LIMITS

1. All claims or grievances arising on or after January 1, 1955 shall be handled as follows:

(a) All claims or grievances must be presented in writing by or on behalf of the employe involved, to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employe or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances. * * * "

RULE 30—MEAL PERIOD

(a) Unless agreed to between the employing officer and the duly accredited representative of the employes, the meal period shall not be less than thirty (30) minutes or more than one (1) hour.

(b) When a meal period is allowed, it will be between the ending of the fourth and the beginning of the seventh hour after starting work, unless otherwise agreed upon by the duly accredited representatives of the employes and the Railway.

(c) Employes required to work overtime continuously with regular assignment will be allowed a second meal period, without deduction from pay, not later than the end of the sixth (6th) hour after the end of the first meal period. If employe elects to take more than twenty (20) minutes, no pay will be allowed for such meal period.

(d) Continuous work without meal period. For regular operations requiring continuous hours, eight (8) consecutive hours without meal period shall be assigned as constituting a day's work, in which case not less than twenty (20) minutes shall be allowed in which to eat, without deduction in pay, between the ending of the fourth and the beginning of the seventh hour after starting work."

We first consider the objections to the claim raised by the Carrier.

Under date of March 2, 1964, the Carrier, its bulletin bearing its File No. 125-19-B; Copy 169-2; Copy 127-6, advised, that effective Monday, March 9, 1964, 7 Yard Clerk; 2 Crew Dispatcher and 4 Relief Clerk positions at its Columbus Yard, would be abolished. That on the same day it issued another bulletin, File 125-19-B; Copy 169-2, advising that 11 vacancies now eixsted at the Columbus Yard and advising further that the Bulletin closes Midnight, March 9, 1964. This Bulletin also listed other information which is not pertinent to the question before us at this time.

The record discloses that prior to March 5, 1964, Mr. H. L. Bishop, Jr., the Superintendent at Columbus, Georgia, forwarded to Mr. Clegg, the General Chairman of the Brotherhood, copies of the Bulletins of March 2, 1964. On March 5, 1964, a conference was held between Mr. Clegg, the General Chairman, the Chief Clerk of the Carrier at which conference Mr. C. G. Rutland, Terminal Trainmaster was also present. At this conference the establishment of the new positions was discussed and the Carrier was advised of the objections of the Brotherhood. Under date of March 10, 1964, the General Chairman, wrote to Mr. Bishop, Jr., advising of the objections and the claim of the Brotherhood that Rules 8 and 30 of the Agreement were being violated and that unless corrections were made, the letter was to be considered as a claim of the successful bidders for what the Brotherhood considered Agreement violations. A conference was requested and one held on March 31, 1964. Under date of April 3, 1964, the claim was denied. Under date of April 6, 1964, the Brotherhood appealed the decision of the Superintendent to H. W. Waters, Vice-President-Operations of the Carrier. In the letter of April 6, 1964, the Claimants are specifically named. It is noted at this time, that the record discloses that on March 10, 1964, the Carrier in File 125-19-B; Copy 169-2, listed, under the signature of H. L. Bishop, Jr., the successful bidders for the position bulletined. They are the same persons who are the Claimants herein.

That between the 5th day of March, 1964 and the 22nd day of July, 1964, several communications and conferences were had between the parties and the claim herein discussed. At no time during this period of time was any question ever raised by the Carrier that the claim filed did not comply with the provisions of the Agreement. The issue is raised for the first time on July 22, 1964, in the letter from the Carrier's Director of Personnel, Mr. L. C. Tolleson, to the General Chairman, wherein the claim was again denied.

This Board has frequently held in interpreting provisions similar to the one in the Agreement before us, that Claimants need not be specifically named so long as they are and can be readily identifiable. See Awards 10426, 10969 and 11964.

The identical issue as that raised by the Carrier in this case came before The National Dispute Committee. Under date of March 17, 1965, it rendered its Decision No. 4. We quote from that decision:

> "**FINDINGS: Paragraph 1(a) of Article V of the August 21,** 1954 (ART. V) Agreement provides that—
>
> > 'All claims or grievances must be presented in writing by or on behalf of the employee involved * * *.'
>
> In its submission to the Third Division, carrier contends that the claim fails to identify any claimant, as required by Article V. Employes reply that 'each individual claimant is identified exactly as well as if they were listed in this submission by their respective given names * * *.'
>
> The National Disputes Committee rules that the claimants are adequately identified as the incumbents of the specific positions named in paragraph (2) of the claim, as of the dates mentioned in paragraph (1) of the claim."

In the instant case the Claimants were readily identifiable so that at all of the times this claim was under discussion the respective Claimants were known to the parties.

The variance, if any, in the claim before us, is not of such substance as to mislead the Carrier as to the nature of the dispute, the Claimants involved nor of its possible liability thereunder. See Awards 10918, 10921.

With respect to that part of the claim, designated 4, which refers to "and/or their successors," The National Dispute Committee in its Decision No. 19, states as follows:

> "Carrier contends that paragraph 1(a) of the claim on behalf of 'successors' is barred because Article V requires the naming of each individual for whom claim is presented.
>
> The National Disputes Committee rules that Claimants have been identified on the record both by name and as the incumbents of certain positions, and that inasmuch as the term 'successors' as used in the claim refers to the successors of the named claimants as the incumbents of certain positions it adequately identifies additional claimants even though it does not specifically name them.
>
> **DECISION:** The part of the claim on behalf of 'successors,' as referring to successors of the named clamiants as the incumbents of certain positions, is not barred by Artile V of the August 21, 1954 Agreement."

With respect to that part of the claim, designated 5, which requests that the records of the Carrier be jointly checked to determine the extent of com-

pensation due to the Claimants, this Board has held in Award 10736 (Levinson) as follows:

> "* * * In order to provide to Clerks compensation for what they would have received, the parties are instructed to determine the total amount thereof by joint check * * *"

In Award 13133 (Hamilton) we held as follows:

> "* * * We hold that Claimants shall be paid compensation for an amount of time equal to that time actually consumed by those employes who performed this work, as reflected by the records of the Carrier * * *"

We overrule the various objections raised by the Carrier to the claim filed in this case.

The Brotherhood claims that the Carrier did not meet the requirements of Rule 8 when it bulletined the positions for bidding on March 2, 1964, in that it failed to list the "preponderating duties of position." When such objection was transmitted to the Carrier and in order to satisfy the objections of the Brotherhood, it did on July 30, 1964, issue a new bulletin for the positions. An examination of both bulletins reveals that they are practically the same, with the exception that the July 30, 1964 bulletin contains additional information as to duties, the basic content of the bulletins being the same. The duties of the position were shown sufficiently at all times so that those employes interested in bidding for the position were able to do so and obtain the new positions. We hold that the Carrier substantially complied with the provisions of Rule 8 of the Agreement and will deny Brotherhood's Claim No. 3.

This leaves for consideration Brotherhood's Claim No. 2, the violation of Rule 30(d).

It is the position of the Brotherhood that the fact that Position No. 1 is classified as Steno-Clerk (Acting Chief Clerk on Saturday and Sunday) while Positions 2, 3 and 9 are classified as Yard Clerks does not alter the application of the rule, for the reason that the character of the service performed is similar or interchangeable, and further that the incumbent of each position must, under the bulletin, be a qualified Yard Clerk and must know the specific handling of Columbus Yard.

It is the position of the Carrier and it argues that the Agreement was not violated in the abolishment and refilling of the positions in question.

With reference to the claim of Bentley (2-a) the record before us discloses that there is no Steno-Clerk position other than the one occupied by Bentley. That Bentley was the occupant of that position prior to March 2, 1964, when Carrier abolished the position and that Bentley was the successful bidder for the new bulletined position. His hours of duty and work performed by him prior to March 2, 1964 and the hours of duty and work now performed by him are identical. The position is filled by only one shift and/or trick from 8:00 A. M. to 4:30 P. M. each day. The position had an assigned meal period prior to March 2, 1964 and has an assigned meal period now, both of 30 minutes each. The record fails to disclose any denial by the Brotherhood of this contention of the Carrier and under our previous Awards, in a like situation we must accept this contention of the Carrier to be correct. We, therefore,

find no violation of the Agreement by the Carrier as to Claimant Bentley and will deny his claim.

The situation as to Claimants Chalkley (2-b); Lloyd (2-c) and Green (2-d) is different.

The Carrier argues, contends and asserts, as to these Claimants, that there was no violation of the Agreement or of Rule 30(d) when the eleven new positions were bulletined and the hours of duty set forth.

A careful examination of the record before us, however, fails to disclose that the Carrier supplied any material facts or competent evidence to substantiate or support its argument, contention or assertions. We have held on any number of occasions that mere assertions do not take the place of evidence. In order to substantiate and/or support such assertions competent evidence must be submitted. This the Carrier has failed to do in the record before us.

From the present state of the record before us, we arrive at but one conclusion and that is, as to these Claimants, that the Carrier violated the Agreement and more particularly Rule 30(d) when it bulletined the eleven new positions in the manner in which it did.

Based on the record and on our findings, in this dispute, we hold that the claims of Chalkley, Lloyd and Green will be sustained for the payment of overtime as set forth in their respective claims, from March 9, 1964 to the date of this Award. See Awards 13091, 13657, Award No. 2—Special Board of Adjustment No. 171—11489, 11586 and 11590.

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 1 Denied as per Opinion.

Claim 2(a) Bentley denied as per Opinion.

Claim 2(b) Chalkley sustained as per Opinion.

Claim 2(c) Lloyd sustained as per Opinion.

Claim 2(d) Green sustained as per Opinion.

Claim 3 Denied

Claim 4 Sustained as per Opinion.

Claim 5 Sustained as per Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of August 1966.

CARRIER MEMBERS' DISSENT TO AWARD 14750, DOCKET CL-15363

(Referee Perelson)

Award 14750 denied the various claims in behalf of claimants occupying yard clerk positions which in March 1964 were bulletined to work eight consecutive hours without an assigned meal period. The majority also correctly denied the claim involving the independent steno-clerk position which was bulletined to work 8 A. M. to 4:30 P.M. with an assigned 30-minute meal period.

We respectfully point out, however, that, on the basis of all the existing facts and evidence of record, the majority should also have denied that portion of the claim alleging violation of the agreement when in March 1964 it bulletined two yard clerk positions (including corresponding relief work) to work 7 A. M. to 4 P. M. and 8 A. M. to 5 P. M. each with an assigned one-hour meal period. It is obvious from the Opinion that the decision is based solely on the fact that the claim as handled on the property and as presented to the Board alleged violation only with respect to Positions Nos. 1 through 11 as designated in the March 2, 1964 and July 30, 1964 bulletins, from which the majority concluded that only eleven yard clerk assignments remained after March 1964 and that there no longer existed any assignments in continuous service on the first trick bulletined to work eight consecutive hours with twenty minutes in which to eat.

The March and July 1964 bulletins (which brought about the original complaint and claim) were submitted as exhibits by both parties. These two bulletins plainly show, in the assigned relief work schedules of the four regular relief assignments (designated in the bulletins as Position No. 8 with title Relief Clerk No. 1, No. 9—Relief Clerk No. 2, No. 10—Relief Clerk No. 3, and No. 11—Relief Clerk No. 4) that there continued to exist two sets of first, second ,and third shift positions in continuous service assigned to work eight consecutive hours with no assigned meal period, one set with assigned hours 7 A. M. to 3 P. M., 3 P. M. to 11 P. M., 11 P. M. to 7 A. M., and the other 8 A. M. to 4 P. M. to 12, 12 to 8 A. M. Thus the 7 A. M. to 4 P. M. and 8 A. M. to 5 P. M. positions were in fact independent assignments wholly separate and distinct from the two sets of continuous service assignments.

For ready reference, we quote below the two concluding paragraphs of the Board's Opinion in Award 1710, which involved a similar situation and shows the proper distinction between independent assignments and continuous service assignments:

"Under the interpretation we gave Rule 40 in Award 1590, the Yard Clerk whose assigned hours of service, between November 1 and

and 30, 1940, were from 2:00 to 11:00 P. M., and who worked in continuous service with the Line Desk Clerks on the first and third tricks, 7:00 A. M. to 4:00 P. M., and 11:00 P. M. to 7:00 A. M., respectively, came within the provisions of Rule 40, and should have been assigned accordingly. This also applies to the first trick Line Desk Clerk, hour 7:00 A. M. to 4:00 P. M. It is clearly shown that these were positions 'whose regular operations need to be performed in rotation throughout the twenty-four-hour period.' Rule 41 provides no exception to positions so assigned in rotation with positions on each of the other shifts, thereby completing continuous service around the clock for the twenty-four-hour period. The fact that the positions on the first and third tricks were classified as line desk clerks, whereas the position on the second trick, the one in question, was classified as a yard clerk, does not alter the application of Rule 40. This rule has to do with the character of service performed, not the title the Carrier may elect to give positions.

Under the interpretation we gave Rules 40 and 41 in Award 1590 we find that the fourth and odd position of yard clerk, whose assigned hours of service were, for the period involved, 5:30 A. M. to 2:30 P. M. and who did not work in rotation with other positions throughout the twenty-four-hour period, was correctly assigned under Rule 41."

Although the additional positions having continuous service assignments were not included in the claim, the record contained sufficient evidence of their existence. By considering only the March and July 1964 bulletins, we respectfully submit that all the evidence contained in those bulletins, which included relief work on the additional positions as reflected in the four relief assignments, was properly before the Board and should have been considered by the majority in determination of the claim.

For the reasons stated, we dissent.

/s/ R. A. DeRossett

/s/ H. K. Hagerman

/s/ C. H. Manoogian

/s/ G. L. Naylor

/s/ W. M. Roberts

LABOR MEMBER'S ANSWER TO CARRIER MEMBERS' DISSENT TO AWARD 14750, DOCKET CL-15363

There simply is no valid distinction to be drawn between "independent assignments" and "continuous service assignments" when, in fact, as here, with respect to Claimants Chalkley, Lloyd and Green, all those assignments were a part of the regular operations requiring continuous hours, i.e., the character of service performed was the same or interchangeable.

Rule 30(d) which reads in part that:

"* * * For regular operations requiring continuous hours, eight

(8) consecutive hours without meal period shall be assigned * * *."

deals with regular operations and is not concerned with whether or not certain individual assignments happen to be a part of a three position or twenty-four (24) hour cycle.

The portion of the Award about which the Dissentors complain is clearly correct and in line with decisions such as Third Division Awards 13091 (West) and 13657 (Mesigh) as well as Award No. 22 of Special Board of Adjustment No. 171 (Regley) which latter Award reads in part:

> "The employes base their claim entirely on Rule 32 of their current agreement, particularly paragraph (a), which reads as follows:
>
> > 'RULE 32(a). MEAL PERIODS. For regular operations requiring twenty-four (24) continuous hours, eight (8) consecutive hours without meal period will be assigned as constituting a day's work, in which case not less than twenty (20) minutes shall be allowed in which to eat, without deduction in pay. Employes will not be required to work more than six (6) hours without being allowed time off to eat.'
>
> The claimants are all involved in the same work, handling mail. Twenty-three of them were assigned to work eight hours within a spread of nine hours, with a one-hour meal period, and sôme sixty-two of them were assigned to work eight hours within a spread of eight and one-half hours, with a thirty minute meal period.
>
> The Organization contends that these assignments were in violation of Rule 32(a) because such operation covered a twenty-four hour period each day. The claim seeks the overtime rate for the time worked in excess of eight hours.
>
> It is argued by the Carrier that the assignments overlapped and that fewer employees worked during certain hours of the day than during others.
>
> We agree with the organization. It is not denied by the Carrier that at the time of this claim mail handling was a regular operation requiring twenty-four (24) continuous hours a day. The fact that there were fewer employees working during certain hours in no way broke the continuity of identical work performed by employes of the same occupation in a continuous operation. The Carrier violated Rule 32(a), therefore, this claim must be sustained."

Thos findings are correct and applicable here, whether other individual yard clerk assignments were involved or not.

The distinction made as to the Steno-Clerk case here might well fit the substantial distinction made in Award 1590 as to the Chief Yard Clerk who the Referee found was not engaged in the same operations which required continuous service. Furthermore, it appears that the quoted language of Award 1710, last paragraph, is chargeable to an erroneous evaluation of prior Award 1590 and it must also be pointed out that the claim in Award 1710 was:

"(b) Claim that the Line Desk Clerk and two Yard Clerks be

paid one hour's overtime each day from November 1, 1940 to November 29, 1940 both dates inclusive."

and that there was no showing of any claim for the Yard Clerk assigned 5:30 A. M. to 2:30 P. M. which the Carrier upon recept of the above quoted claim, immediately (within 5 days) corrected so as to work 5:30 A. M. to 1:30 P. M., i.e., eight (8) hours.

Award 14750, specifically as to Claimants Chalkley, Lloyd and Green being assigned in regular operations requiring continuous hours, is quite correct and the dissent does not detract from the soundness thereof.

/s/ D. E. Watkins

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