

Award No. 14953

Docket No. CL-14498

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

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

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5454) that:

1. Carrier violated and continues to violate the Clerks' Agreement at Lewistown, Montana, when it abolished Rate Clerk Position No. 6091, which was a regular 6-day position, and established Relief Clerk Position No. 6241-6092 to perform the work of the abolished Rate Clerk Position on four days, Wednesday, Thursday, Friday and Saturday; and to perform rest day relief work on Position No. 6092 on Sunday, thereby combining regular and relief work in one position.
2. Carrier shall now be required to compensate employee D. C. Gilmer, his successor or successors, if there be any, at the pro rata rate of Rate Clerk Position No. 6091 for eight (8) hours for each Monday and Tuesday and at the overtime rate for eight (8) hours for each Saturday and Sunday retroactive 60 days from the date of this claim until the violation is corrected.
3. Carrier shall now be required to compensate employee D. W. Matthews, his successor or successors, if there be any, at the overtime rate of Position No. 6092 for eight (8) hours for each Sunday retroactive 60 days from the date of this claim until the violation is corrected.
4. Carrier shall now be required to separate regular work from relief work and rebulletin Rate Clerk Position No. 6091 as a regular 6-day position.

EMPLOYEES' STATEMENT OF FACTS: Prior to June 1, 1962, the following clerical positions were in effect at Lewistown, Montana:

Pos. No.	Title	Assigned Days	Rest Days
6089	Cashier	Monday through Friday	Sat&Sun
6091	Rate Clerk	Monday through Friday	Sat&Sun
6092	Yard Clerk	Monday through Friday	Sat&Sun
6242	General Clerk	Monday through Friday	Sat&Sun
6241	Relief Clerk	Wednesday through Sunday	Mon&Tues

It will be noted that the April 18, 1960 Agreement provides for the establishment of one Electronic Data Processing Center at Chicago, Illinois and ten regional offices at various locations, one of which is Aberdeen, South Dakota.

In connection with the establishment of the Aberdeen Regional Data Office there was listed for abolishment (through attrition as provided in Section 10 of the April 18, 1960 Agreement), a total of four positions in Seniority District No. 44, one of which was Rate Clerk Position No. 6091 at Lewistown, Montana.

With the transfer of work from Rate Clerk Position No. 6091 to the Aberdeen Regional Data Office under the provisions of the April 18, 1960 Agreement (Carrier's Exhibit A), Rate Clerk Position No. 6091 was, in accordance with the provisions of the April 18, 1960 Agreement, abolished effective with the close of the assignment thereof on May 31, 1962 and the remaining duties were assigned to Cashier Position No. 6089 and Relief Clerk Position No. 6241 which was, on June 1, 1962, rebulletined as Relief Clerk Position No. 6241-6092 and assigned to relieve Yard Clerk Position No. 6092 on Sunday and to perform, in accordance with the provisions of Rule 27(e), such types of other work on Wednesday, Thursday, Friday and Saturday as may be assigned under the Clerks' Agreement.

There is attached as Carrier's Exhibit B copy of letter written by Mr. S. W. Amour, Assistant to Vice President, to Mr. H. V. Gilligan, General Chairman, under date of February 12, 1963 and as Carrier's Exhibit C copy of letter written by Mr. Amour to Mr. Gilligan under date of August 7, 1963.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to the date of the claim there existed Rate Clerk Position No. 6091, Yard Clerk Position 6092 and Relief Clerk Position No. 6241. The employee assigned to Position No. 6241, among other duties, relieved the employees assigned to Positions No. 6091 and 6092 on their respective rest days. Effective May 31, 1962, the Rate Clerk Position No. 6091 was abolished, and the remaining duties were assigned to Cashier Position No. 6089 and Relief Clerk Position No. 6241. The latter position was rebulletined as Relief Clerk Position No. 6241-6092 and the assigned employee performed Rate Clerk duties some days of the week and Yard Clerk duties on other days of the week.

Employees contend that the duties of the Rate Clerk Position No. 6091 "remain and continue to be performed on six days per week." Therefore, the work of that position does not fall "within the category of 'such types of other work on other days as may be assigned under this Agreement', under the provisions of Rule 27(e)."

It is Carrier's position that it is proper and permissible under the Agreement to combine the two positions, since Position No. 6091 no longer existed.

This precise issue involving the same parties and the same agreement was considered in Awards 13046 and 13274, which denied the claims. In Award 13046 we said:

"There is no prohibition in the Agreement against the Carrier establishing a one-day relief assignment and then adding to it, as other work, a four-day assignment to complete a five day position."

Similarly, the Carrier may establish a position combining a two day relief assignment and a three day regular assignment to complete a five day position. The conclusions reached in Awards 13046 and 13274 are valid and apply to the issue in this 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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1966.