

Award No. 16782

Docket No. CL-17237

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE 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-6301) that:

1. Carrier violated the Clerks' Rules Agreement at Sioux City, Iowa, when it failed to call employee B. C. Bell on Sunday, May 8, 1966 to perform overtime work in the West Yard and used a junior employee in lieu thereof.

2. Carrier shall now be required to compensate employee B. C. Bell for five hours and twenty minutes (5'20") at the penalty rate of pay of Position 6471 for Sunday, May 8, 1966.

EMPLOYEES' STATEMENT OF FACTS: Employee B. C. Bell, who has a seniority date of December 3, 1947 in Seniority District No. 42 is regularly assigned to Yard Clerk Position 6471 in the West Yard, Sioux City, Iowa, from 2 P. M. to 11 P. M., Monday through Friday, with Saturday and Sunday rest days. Position 6471 is a 6-day position and is relieved on the Sunday rest day only.

Employee R. Clarstrom, who has a seniority date of August 31, 1964 in Seniority District No. 42, is the regularly assigned occupant of Relief Yard Clerk Position at Sioux City, Iowa, which relieves Yard Clerk Position 6470 from 6:30 A. M. to 3:30 P. M. on Friday and Saturday; Yard Clerk Position 6471 from 2 P. M. to 11 P. M. on Sunday, and Yard Clerk Position 5472 from 3:30 P. M. to 11:30 P. M. on Monday and Tuesday.

Due to the absence of the regular occupant of Yard Clerk Position 6470 on vacation, employee R. Clarstrom occupied and filled Yard Clerk Position 6470 in the East Yard from 6:30 A. M. to 3:30 P. M. on Sunday, May 8, 1966 and employee E. Flair, who has a seniority date of January 22, 1966 in Sen-

nently at the time overtime work occurs will be used for the overtime work." (Emphasis ours.)

Employee Clarstrom continued on duty on an overtime basis until he completed his duties at 7:30 P. M. and for this overtime service employee Clarstrom was allowed 4 hours at the overtime rate in accordance with the provisions of Rule 34(c) which reads as follows:

"Employees notified or called to perform work, either before or after, but continuous with their regular work period, shall be allowed time and one-half on the minute basis for such time worked."

Attached hereto as additional Carrier's Exhibits are copies of the following letters:

CARRIER'S EXHIBIT B—Letter written by Mr. S. W. Amour, Vice President-Labor Relations, to Mr. H. C. Hopper, General Chairman under date of September 9, 1966.

CARRIER'S EXHIBIT C—Letter written by Mr. Amour to Mr. Hopper under date of April 3, 1967.

(Exhibits not reproduced.)

OPINION OF BOARD: On Sunday, May 8, 1966 employee R. Clarstrom, junior to Claimant on the Seniority Roster, completed his assignment on Position 6470 in East Yard at 3:30 P. M. and was then used to perform yard clerk work in the West Yard from 3:30 P. M. to 7:30 P. M. at the overtime rate. The Organization contends that this overtime work belonged to Claimant for the reason that Rules 32 and 34 were violated. They also contend that the procedure agreed upon in the application of Rules 32(f) and (g) contained in Memorandum of Agreement No. 9 was not followed. However, in view of Award No. 10178 (Daly) this Board cannot agree with these contentions. We find in the instant case that the employee used for overtime (Clarstrom) first completed his regular assignment and then, without a time lapse or interruption, worked overtime.

This Board is unable to find a rule that would confine the utilized employee's duties to either the East or West Yard on Carrier's property. Therefore, in view of Award 10178 which interprets Rule 32(f) in connection with Memorandum of Agreement No. 9 relative to this same issue, we will deny 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 by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of November, 1968.