

Award Number 17834

Docket Number CL-18373

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6614) that:

1. Carrier violated the Clerks' Agreement when, effective at close of business Friday, March 15, 1968, it nominally abolished the position of Rate Clerk at Cairo, Illinois, and effective Monday, March 18, 1968, it required the Star Agent to perform the duties of the abolished Rate Clerk position, in violation of Rules 1, 2, 3, 5, 25, 45 and related rules of the Clerks' Agreement.
2. The Carrier shall be required to compensate Mr. H. F. Morris, Chief Clerk-Cashier, Cairo, Illinois, for eight hours at the punitive rate of \$4.84 per hour, amount \$38.72, for Monday, March 18, 1968, and each subsequent Monday through Saturday, through May 18, 1968, a total of 54 claim dates, amount \$2090.88.

EMPLOYEES' STATEMENT OF FACTS: Cairo, Illinois, is located about 147 miles south and east of St. Louis, Missouri, on the Carrier's Missouri Division Station and Yards clerical seniority district.

For many years the Carrier has maintained a clerical force at its Freight Office at Cairo, Illinois, and it still employs a clerical force there.

The clerical forces employed at Cairo, Illinois, are reflected in the following statement beginning with Mediation Wage Agreement of November 1, 1928. There were clerical forces at Cairo, Illinois, for many years prior to November 1, 1928, but Wage Rate Sheets for those years are not available to the Employees at this time.

Statement of Wage Rates at Cairo, Illinois, Beginning with Mediation Wage Agreement of November 1, 1928, and Subsequent Dates of Rate Changes

[illegible]

9. The claim was not composed on the property and we are in receipt of the Organization's notice of intent to file the claim set forth as Statement of Claim above.

(Exhibits Not Reproduced)

OPINION OF BOARD: Prior to March 15, 1968, Carrier's station force at Cairo, Illinois, consisted of a Star Agent, a Chief Clerk-Cashier and a Rate Clerk. Effective with the close of business on March 15, 1968, the Rate Clerk's position, the lower rated of the clerical positions, was abolished. The Carrier contends that thereafter the Chief Clerk-Cashier performed most of the remaining work of the Rate Clerk's position, with the Star Agent filling out his tour of duty with the remainder.

The Petitioner contends that the performance of clerical work by the Star Agent, during the period that the Rate Clerk position was abolished, was a violation of the Clerks' Agreement. The Carrier contends that Star Agents, Agent-Telegraphers and Telegraphers have historically performed the identical work here in dispute throughout the Carrier's system.

Awards 16833 and 16834 involved disputes between the same parties and similar contentions by the parties. In lead Award 16833 we held in part:

"The more recent, and, in our opinion, better reasoned Awards of the Division, have, in interpreting general type Scope Rules such as involved herein applied the principle of determining whether or not the work in dispute has been performed solely and exclusively by employees covered by the Petitioner's Agreement through custom, tradition and past practice on the Carrier's system, and that the burden of proving such sole and exclusive right through custom, tradition and practice, is on the Petitioner. (Awards 15458, 14593, 14327, 14944, among others.)

"Furthermore, the question of whether work formerly done by employees under the Clerks' Agreement, due to reduction in forces, can be assigned to employees under the Telegraphers' Agreement, has been before this Board many times. See Award 14085 and others cited therein.

"The Petitioner had the burden of proving that the work assigned to the Star Agent-Telegrapher belonged exclusively to the Clerks under their Agreement. This it has failed to do."

The record in the present dispute requires a like decision. The claim will be denied for the reasons set forth in Award 16833.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of April 1970.