

Award No. 18438
Docket No. CL-18698

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Melvin L. Rosenbloom, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6739) that:

1. Carrier violated the Clerks' Agreement when, on October 22 and 23, 1968, Mr. Glenn Toler, Transportation Inspector (Carrier Officer) performed routine clerical work in the Sargent Yard and office at Memphis, Tennessee, of tracing cars without bills and bills without cars, for sufficient information to make out waybills to move cars, which was in violation of Rules 1, 2, 3, 5, 25, 45 and related rules of the Clerks' Agreement.

2. Carrier shall be required to pay claimant Clerk J. T. Ransome, as follows:

October 22, 1968 — 10 hours at punitive rate
of \$4.95 per hour amount \$49.50

October 23, 1968 — 9½ hours at punitive rate
of \$4.95 per hour amount \$47.03

Total claim \$96.53

EMPLOYEES' STATEMENT OF FACTS: On the claim dates, October 22 and 23, 1968, the Carrier maintained a clerical force in the Sargent Yard and Leewood Yard at Memphis, Tennessee, as follows:

(Chart not reproduced)

Clerk James T. Ransome is listed on the seniority roster of the Memphis Terminal, Offices of Assistant Superintendent, Station and Yards, Mechanical and Supply Department, Class A & B employees, with a Class A seniority date of September 16, 1942.

On the claim dates, Mr. Ransome was regularly assigned to position of Utility Clerk (106) at Memphis, a seven day per week assignment, Monday

5. The clerical employees at Memphis contend this work was reserved exclusively to clerks and that it was a violation of the Agreement when an officer engaged in activities incidental to expediting the movement of loads. The Employees filed the instant claim which was progressed through the usual channels on the property.

6. Carrier declined the Employees' claim based upon the fact that the clerks' Agreement violated when officers determine names of consignees, routing, etc. This claim was declined by Carrier's Director of Labor Relations as follows in a letter dated April 23, 1969:

"April 23, 1969
D 205-4221

Mr. F. D. Lupton
General Chairman - Clerks
1208 Continental Bldg.
3615 Olive St.
St. Louis, Mo. 63108

Dear Sir:

Please refer to your letter of February 27, 1969, file 7478, appealing claim of Clerk J. T. Ransome for ten hours at the time and one-half rate for October 22, 1968 and nine hours at the time and one-half rate for October 23, 1968, when it is alleged an official performed work at Memphis which is alleged to be reserved exclusively to clerks.

The facts as we understand them in this case are that a clerical employe prepared a list of cars on hand without bills and that the transportation inspector exercised a managerial prerogative of developing by which he was able to issue instructions concerning the billing and disposition of these cars. After the transportation inspector developed the information, the instructions were given to clerical employees at Memphis, who prepared waybills and routed cars to their proper destination.

There is neither practice nor agreement provision which prohibits an official performing service of this nature; in fact, it is an integral part of his duties and responsibilities as an official.

In view of these facts, claim is without merit and is respectfully declined.

Yours truly,

/s/ O. B. Sayers"

OPINION OF BOARD: The facts herein are not in dispute. On the claim dates Carrier's Transportation Inspector, an officer of the company, worked ten hours and nine and one-half hours, respectively, performing most of the routine clerical duties shown on the bulletin for Utility Clerk-"No Bill" (No. 106). The Transportation Inspector obtained a list of no-bill cars on hand, went into the yard and opened cars to determine the origin or destination of the cars, and telephoned offices of Carrier as well as other lines and shippers for the purpose of securing information sufficient to make out way-

bills. All of these functions are included in the bulletin of Position No. 106. Claimant contends that Carrier violated the Scope Rule and other rules by permitting its officer to engage in this work. Claimant further alleges that such activity by excepted employes has become a yearly ritual during the fall when soybean movement is heavy.

Carrier defends by asserting that its officer was merely "developing information by which he was able to issue instructions." We do not agree. The Transportation Inspector went far beyond managerial prerogative when he spent full days performing routine work assigned by bulletin to and normally performed by a clerical employe. We adopt the reasoning expressed on this subject by Referee Ives in Award 15461.

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 Agreement was violated.

AWARD

Claim sustained.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1971.