



Award No. 19103

Docket No. CL-16651

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

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

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6124) that:

1. Carrier violated the rules of the Clerks' Agreement at Sioux City, Iowa on October 12, 1965, when it required or permitted General Yardmaster H. V. Bray, an employe not covered by the Clerks' Agreement, to perform work covered thereby.

2. Carrier shall now compensate employe Billy C. Bell, a minimum call (3 hours) at the pro rata rate of his regularly assigned Yard Clerk Position No. 6471.

EMPLOYEES' STATEMENT OF FACTS: Employe James Clifford is the regularly assigned occupant of Demurrage Clerk Position 6287 at Sioux City, Iowa.

Employe Billy C. Bell is the regularly assigned occupant of Yard Clerk Position 6471 at Sioux City, Iowa.

Both employes Clifford and Bell are authorized Weighmasters at Sioux City, Iowa.

On October 12, 1965, during the assigned hours of employe Clifford and while he was performing other duties of his assignment, General Yardmaster Bray weighed eleven cars, and upon employe Clifford's return to the office asked him (Clifford) to sign the weigh tickets which he (Bray) had placed on the desk. Employe Clifford refused to sign the weigh tickets because he had not weighed the cars, but was subsequently persuaded to do so by Agent J. E. McGuire. See copy of employe Bell's notarized statement of January 7, 1966, verified as correct by E. M. Isaacson, Operator, which is attached as Employes' Exhibit "A."

Claim filed by employe Bell account General Yardmaster Bray performing the work of weighing cars, was declined by Superintendent Walleen on December 9, 1965. Copy of Superintendent Walleen's letter is attached as Employe's Exhibit "B."

OPINION OF BOARD: The Organization contends that Carrier violated Memorandum of Agreement No. 3 governing the parties to this dispute when Carrier's General Yardmaster H. V. Bray, on October 12, 1965 weighed eleven cars in the west yard at Sioux City, Iowa.

It appears from the record that Yardmaster Bray weighed the cars in question while Yard Clerk James Clifford was on duty on the date in question. Memorandum Agreement No. 3 provides in those cases where a clerical employe is on duty in the yard in which the scale is located, the clerical employe will weigh the car or cars.

Carrier argues that Claimant Bell's services were not required or needed to assist or aid employe Clifford, who was on duty, in connection with the work here in dispute, and thus Claimant has not been damaged.

With this contention, we agree. Before reaching the merits of the claim, Claimant has the duty of showing that he was entitled to the work in dispute, if Carrier did in fact violate the Agreement, or that he was injured in some manner. Here, Claimant is not the proper claimant in this instance. The alleged violation occurred in regard to Clerk Clifford's position, while Clifford was on duty. Claimant Bell was in no way involved, and thus we will dismiss the claim for failure of Claimant to establish any basis for his claim herein.

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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 24th day of March 1972.