

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19280  
Docket Number CL-16060

Clement P. Cull, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway and Steamship Clerks,  
(Freight Handlers, Express and Station Employees  
(  
(Southern Pacific Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5875)  
that:

(a) The Southern Pacific Company violated rules of the Clerks' Agreement, particularly the Scope Rule, when on July 21, 28, 29, and August 1, 1961, it required and/or permitted a conductor to perform clerical work assigned to and normally performed by Clerk Mark W. Lilley; and,

(b) The Southern Pacific Company shall now be required to allow Clerk Mark W. Lilley additional compensation in the amount of a two (2) hour call at the overtime rate of Car Clerk Position No. 8, Pomona, California, for each date July 21, 28, 29 and August 1, 1961.

OPINION OF BOARD: On the four days in question, the Car Clerk was delayed in the yards and unable to return to the yard office to timely make up and deliver the switch list to the switching conductor for his use in switching the industrial tracks of Bell Grain and Milling Company. The conductor proceeded to telephone the industry to ascertain the correct switching, after which the Car Clerk nonetheless performed all duties which he would normally do absent the conductor having made the calls to the industry. The conductor's calls were purely voluntary on his part.

This Board has many times held that voluntary performance absent direction or authority cannot be used for basis of claim, and we so find in this case.

Having disposed of the claim on the foregoing basis, it is unnecessary to consider other contentions raised by the parties.

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;

Award Number 19280  
Docket Number CL-16060

Page 2

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:

E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of June 1972.