

SPECIAL BOARD OF ADJUSTMENT NO. 166

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees on the Missouri Pacific Railroad, that the Carrier violated the Clerks' Agreement:

1. When, effective on or about February 16, 1953, it did, contrary to Agreement provisions, arbitrarily and without conference, negotiation or agreement of the parties, in effect, establish an "excepted" position at its Kansas City, Missouri Local Freight Station warehouse facility -
 - (a) Designating such position as Assistant Agent - a misnomer title with a monthly rate of \$432.00 for all services performed, and filled such position by appointment of H. C. Resseger, a Clerk;
 - (b) Effective June 1, 1953, it removed Clerk H. C. Resseger involuntarily from the position and filled it by appointment of Mr. A. J. Bishop, an employee of another class of service;
 - (c) Effective January 12, 1955, the Carrier established another, in effect, "excepted" position at its Kansas City freight warehouse facility, with a misnomer title of Assistant Agent in the same arbitrary manner as it had appointed A. J. Bishop as Assistant Agent, referred to in (b) hereof, and appointed Joseph C. Forbes from another class of service with a monthly salary of \$426.95 for all services performed;
2. All three appointees referred to in (a), (b) and (c) of "1" hereof, were given the duty and work of -

Supervising of loading, unloading and handling of less car-load freight,

which arrangement remained in effect until Tuesday, February 1, 1955, when so-called Assistant Agent Mr. Bishop was moved from the warehouse platform to the Agent's office, upstairs, when he began performing the duties of -

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Examining and handling papers preparatory to taking over the duties of handling of personal record work, covering employes in the Local Freight office and on the freight platform, such as -

1. Making investigations, handling correspondence relative to applications from new employes for the Warehouse Local Freight office and yards;
2. Advertising vacancy bulletins, assignment notices or bulletins, abolishment notices, displacement notices,

which work, identified as "1" hereof, was handled through all the years by the Agent's Stenographer, a fully covered scheduled position, while the work stipulated in "2" hereof was performed by the Chief Clerk to the Agent, a "restricted" position, which was a fully excepted position until July 1, 1943.

The work of "supervising of loading, unloading and handling of less carload freight" given to Assistant Agents in the warehouse, is work that theretofore, through the years, was performed by employes subject to the scope and operation of the Clerks' Agreement, either "restricted" from certain rules only of the Agreement, or who were covered by all the rules of the Agreement, as we shall show, which Carrier action was in violation of Scope Rule 1, Classification Rule 2, Seniority Rule 3, Promotion Rule 4, Seniority Districts and Rosters, Rule 5, Vacancies and New Positions, Rule 6, and other related rules, including the Effective Date and Changes Rule 45 of the Clerks' Agreement.

3. (a) Beginning Tuesday, March 1, 1955, the Carrier shall, by appropriate Board order, be directed to compensate R. C. Davis, Chief Clerk, "restricted" from the seniority rules of the Agreement only (until he left the Chief Clerk position Tuesday, September 6, 1955) additionally a day's pay at pro rata rate, amount \$20.10 per day for each day, five days per week, Monday through Friday and the Relief Clerk, T. W. Lawless, shall be compensated additionally a day's pay at pro rata rate, \$20.10, for each Saturday and Sunday, account of Carrier's violation of the rules of the Clerks' Agreement cited herein.

(b) General Warehouse Foreman G. F. Gugel, "restricted" from the seniority rules of the Agreement only, shall be compensated by the Carrier additionally a day's pay at pro rata rate of \$19.63 per day, each day, five days per week; Monday through Friday, and punitive time for Saturday and Sunday, beginning March 1, 1955, such claims to continue until the dispute is disposed of and the claims satisfied.

NOTE: Chief Clerk R. C. Davis utilized his seniority on the Kansas City Terminal Station and Yards roster of September 1, 1914, to bid on an open, advertised position of "Open Item Clerk", rate \$15.38 per day, and the Carrier blanked the Chief Clerk's position each work day, September 6, 1955, Monday through Friday, until Monday, October 3, 1955, when Clerk Joe Aiduk, seniority date of July 11, 1928, was appointed to fill same. Claims in behalf of Joe Aiduk are being filed by the Division Chairman at Kansas City, similar to the Davis claims, starting October 3, 1955, to continue each work day until the dispute is disposed of and the claims satisfied, which claims will be handled separately from this submission.

FINDINGS: The Carrier has a large freight handling facility at Kansas City and other suburban facilities supervised by an Agent. There was one official position of Assistant Agent prior to February 1953. On February 16, 1953, the Carrier established another official position of Assistant Agent there, and on January 12, 1955, a third official position of Assistant Agent was established there.

It is shown that such positions were established due to the expansion of Carrier's business and working forces. Certainly the establishment of such official positions is not governed by the Clerks' Agreement and does not justify any claim on behalf of clerks unless it be shown that the occupants of such official positions are performing work properly within the scope of the Clerks' Agreement.

It appears that the work complained of is that of supervising and directing the work of warehouse employes, which is alleged to be work formerly performed by the General Warehouse Foreman. However, the docket indicates that the work of the Assistant Agent consists simply of an extension of the supervision of the warehouse, formerly performed by the Agent and his one Assistant prior to February 1953.

There is also complaint about an Assistant Agent handling personal record work, interviewing applicants for employment, handling vacancy, assignment, abolishment and displacement notices and bulletins. Such matters are management responsibilities under the Agreement with the Clerks and are properly performed by Carrier officials. The only objectionable activity shown was situations where an Assistant Agent typed or wrote out notices and bulletins. It appears that such practice has been corrected and all such typing is being performed by a Stenographer. Accordingly, it appears that the claims are without merit.

AWARD: Claim denied.

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/s/ Dudley E. Whiting
Dudley E. Whiting - Chairman

/s/ Ira F. Thomas
I. F. Thomas - Employee Member

/s/ G. W. Johnson
G. W. Johnson - Carrier
Member

St. Louis, Missouri
January 16, 1957