

SPECIAL BOARD OF ADJUSTMENT NO. 170

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES
versus
ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the Carrier violated the Agreement between the parties, effective June 23, 1922, as subsequently revised, when:

(a) On May 5th, May 6th, May 7th, May 12th, May 13th, May 19th, May 26th, June 2nd, June 3rd, June 9th, June 16th, June 30th, July 8th, July 14th, July 19th, July 21st, July 23rd and July 28th, 1954, the Carrier required - R. Lustfeldt, M. L. Lustfeldt, E. Michaelson, W. Hnatuske, E. Parenti and A. McMullen, employed as clerks at Markham Yard, to suspend work on their regular positions, and perform work on refrigerator cars such as adjusting vents, plugs and handling of heaters, etc., on cars loaded with bananas, and failed and refused to call R. Norberg, L. Crocker, D. E. Woolever, D. L. Wilson, and D. Waters, who were off duty and available to perform that class of work, and

(b) That Carrier shall now be required to pay Messrs. R. Lustfeldt, M. L. Lustfeldt, E. Michaelson, W. Hnatuske, E. Parenti and A. McMullen, in addition to compensation already paid, an additional sum at pro rata rate of their respective positions, for the number of hours that each of said claimants were required to suspend work on their regular positions on the dates enumerated above, and

(c) That the Carrier shall now be required to pay Messrs. R. Norberg, L. Crocker, D. E. Woolever, D. L. Wilson, and D. Waters, in addition to compensation already paid, an additional sum at penalty rate of their respective positions, (on a call basis) account of Carrier's failure and refusal to call above named claimants for adjusting of vents, plugs and handling of heaters, etc., on refrigerator cars loaded with bananas on dates enumerated above.

OPINION: This claim arises out of the use of certain yard clerks and yard checkers then on duty to adjust vents and plugs on cars of bananas at Markham Yard, south of Chicago. It appears that perishable service is sporadic and fluctuating and therefore not assigned to any certain positions. It also appears that it was necessary that perishable service be promptly performed as the required service could not be deferred. The service necessary to be performed was not assigned to any group of employees except perishable inspectors. It also appears that for many years yard clerks and others have performed this service, see CL-8578, Award No. 26.

It is the position of the Employees that the penalty should be at the over-time rate, based on the respective rates of pay applicable to the positions occupied by the involved employees for whom claims were filed at penalty rate.

It is the position of the Carrier that there is nothing in the Agreement requiring the Carrier to call the off duty claimants to do the work in question; that the Carrier has a right to require yard clerks to perform perishable protection service, and there is no rule that requires the Carrier to perform any work at over-time rate that can be performed by employees on duty at straight time rates. It appears

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to be the rule that the Carrier has the prerogative to determine the job content of positions and that for many years the yard clerks and others were required to perform perishable service in this particular yard.

In the case at bar the services rendered by the yard clerks did not belong to any other position. It also appears that the Carrier had a right to assign this work to yard clerks.

FINDINGS: The Special Board of Adjustment No. 170 after giving to the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act;

That the Special Board of Adjustment No. 170 has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD: Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 170

/s/ Edw. M. Sharpe
Edward M. Sharpe -- Chairman

A. B. Simmons -- Employee Member

/s/ E. H. Hallmann
E. H. Hallmann -- Carrier Member

Chicago, Illinois
January 17, 1958