

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 239
(Clerks' Board, St. Louis, Missouri)

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Clerks' Agreement when, on 19 consecutive days, December 7 through December 25, 1957, both dates inclusive, it required extra train Mail Handlers working on passenger train No. 11, to assist clerical forces unload and deliver U. S. mail to the westbound over-the-highway mail truck from a carload of mail set out of train No. 11 to the freight warehouse platform at Hoisington, Kansas, which action was in violation of rules 1, 3, 5, 6 and 25 and related rules;

(2) The Carrier shall be required to compensate Clerk Earl D. LaOrange for a total of 26 hours at the punitive hourly rate of \$3.195 per hour, amount \$83.05, on the basis of the attached Claim Statement made a part hereof, which shows the amount of claim on each of the 19 dates, December 7 through December 25, 1957.

OPINION OF BOARD:

Claimant is a station employe under the Clerks' Agreement at Hoisington, Kansas, classified as General Clerk, assigned hours 4:00 AM to 12:00 noon, Monday through Friday. He claims pay for a constructive "call" under Rule 25(e) on his rest days and for Christmas Day, a holiday; also, overtime compensation on other dates, for which claim is made, on a minute basis from time of departure of train No. 11 from Hoisington to the 4:00 AM, starting time of his regular assigned hours. The basis for claim is that Carrier removed the work of handling U. S. mail from the scope and operation of the Clerks' Agreement.

There is no clear and convincing proof that work, which is the subject matter of dispute, attaches exclusively to claimant's position. Before claimant is entitled to be paid for a "call" when no work was performed by him, there must be a clear showing made that others have trespassed upon his exclusive work. That requirement has not been met in this docket.

FINDINGS:

The Board, after oral hearing, and upon the record and all the evidence, finds and holds:

Award No. 9

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended;

That jurisdiction over the dispute involved herein has been conferred upon this Board by special agreement; and,

That the Agreement by and between the parties to this dispute has not been violated.

AWARD

Claim denied by order of:

SPECIAL BOARD OF ADJUSTMENT NO. 239

/s/ A. Langley Coffey
A. Langley Coffey, Chairman

/s/ F. E. Griesse
F. E. Griesse, Employer Member

/s/ Ira F. Thomas
Ira F. Thomas, Employee Member

Dated at St. Louis, Missouri,
this 30th day of June, 1959.