

ORG. FILE 7-64  
CARRIER FILE 140-551-11  
NRAB FILE CL-2007

AWARD NO. 36  
CASE NO. 36

SPECIAL BOARD OF ADJUSTMENT NO. 174

PARTIES      The Brotherhood of Railway and Steamship Clerks,  
                 Freight Handlers, Express and Station Employees

TO

DISPUTE      The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
that:

(a) Carrier violated the Clerks' Agreement when it failed  
and refused to compensate Mr. Couch at the rate of the Cashier Position  
on May 30, 1955; and,

(b) Carrier shall now pay Claimant Couch the difference  
(\$1.58) between the Cashier Position and the General Clerk Position for  
Memorial Day, May 30, 1955.

FINDINGS: Special Board of Adjustment No. 174, upon the whole record  
and all the evidence, finds and holds:

The Carrier and Employees involved in this dispute are re-  
spectively Carrier and Employees within the meaning of the Railway Labor  
Act as amended.

This Special Board of Adjustment has jurisdiction over this  
dispute.

Claimant was regularly assigned as General Clerk (rated  
\$14.92). The occupant of a Cashier position (rated \$16.50) not assigned  
to work holidays took his vacation May 16 through June 3; and Claimant  
was designated to fill the assignment of the regularly assigned occupant  
of the Cashier position.

Claimant worked each work day of the Cashier assignment  
which did not include the May 30 holiday. He was paid the Cashier rate  
(\$16.50) for each day worked and the General Clerk rate (\$14.92) for  
the holiday. Claim is for the difference (\$1.58).

Article II, Section 1 of the Holiday Agreement provides:

"...each regularly assigned hourly and daily rated employees shall receive eight hours' pay at the pro rata hourly rate of the position to which assigned...."

Article 10(a) of the Vacation Agreement provides:

"An employee designated to fill an assignment of another employee on vacation will be paid at the rate of such assignment or the rate of his own assignment, whichever is the greater...."

First. The two rules are not in conflict because the Holiday Rule uses the words "assigned" and not "regularly assigned." If the Holiday Rule had fixed the holiday pay at the rate of the position to which "regularly assigned," it may well be that the special holiday rate would control the general provision of the Vacation Agreement above quoted.

Claimant was not performing the work of his regularly assigned position and also some work of a higher rated position each day as in Second Division Award 2350. He was no longer filling his own regular assigned position on the day the holiday fell; and he was "assigned" the Cashier position that day within the meaning of Article II, Section 1 of the Holiday Agreement.

Second. The purpose of the Holiday Rule is to make the employee whole for loss of earnings in weeks during which holidays fall; and this purpose is not served by paying Claimant the rate of his regular assigned position which he was not working on the holiday (SAB No. 239 Award 1).

A W A R D

Claim sustained.

/s/ Hubert Wyckoff  
Chairman

/s/ L. D. Comer  
Carrier Member

/s/ W. Ray Clark  
Employee Member

Dated at Los Angeles, California, April 14, 1961