

PUBLIC LAW BOARD NO. 912

PARTIES) NORFOLK AND WESTERN RAILWAY COMPANY
TO)
DISPUTE) UNITED TRANSPORTATION UNION

STATEMENT OF CLAIM: Claim of Detroit Yard Foreman R. L. Barrows, Helpers G. L. Ballard and F. J. Brickey, Detroit Terminal, for eight (8) hours at yard rate, in addition to other allowances, for being required to perform additional duties of a clerk, in weighing cars, on Time Report No. 12, dated October 12, 1981.

FINDINGS: This Public Law Board No. 912 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant foreman and two helpers claimed two hours pay in addition to other allowances for being required to perform the additional duties of a clerk, i.e., weighing cars, on Time Report No. 12 dated October 12, 1981.

The claimants were performing service at Oakwood Yard, Detroit, Michigan, on October 12, 1981 and during their tour of duty were required to weigh Car NW 318963. The car had been marked by a yard clerk, and the yard foreman was instructed by the general yardmaster to weigh the car.

The yard crew handled the car to be weighed to the scale and spotted it on the scale for weighing. The yard foreman inserted the scale ticket, which was in triplicate with carbon paper between the sheets, and the gross weight of the car was automatically stamped on the ticket. The yard foreman filled in the car number and initial and the light weight of the car on the scale ticket and delivered the scale ticket to the yard office.

The Organization relies upon Article 22, Paragraph C which states:

"Yardmen will not be required to weigh cars at point where yard clerks are available, without the necessity of adding to the present force."

This Board has previously had an award on this identical subject, Award No. 15, wherein the Board held that if the yard clerks were actually occupied in other necessary duties, they were then to be considered unavailable, and it would not constitute a violation for yard crews to perform this service.

Yard Clerk K. Kozole signed a time claim stating that she was working and available to weigh the car. The Superintendent denied her claim

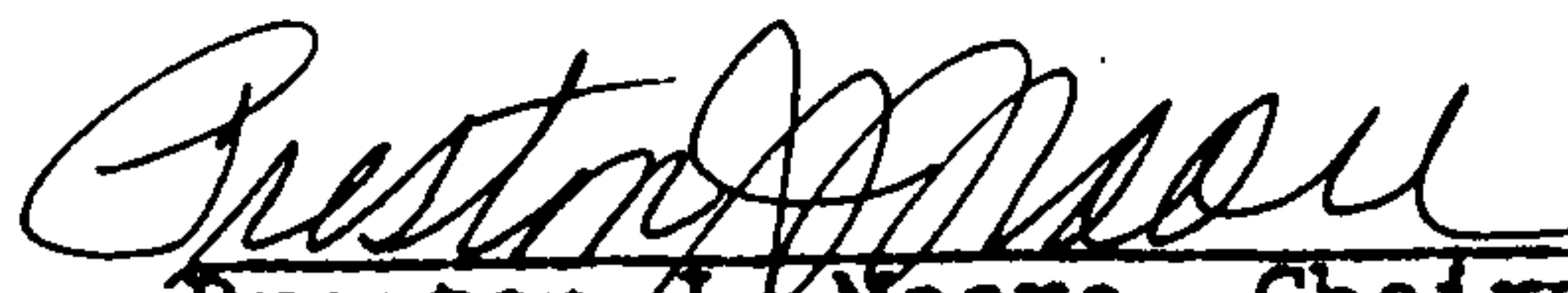
alleging that the clerks on duty were occupied in other necessary duties and were not available to perform this service. There is no statement from General Yardmaster D. V. Monn, who instructed the claimant to weigh the car, regarding whether he had inquired or checked to see if a yard clerk was available.

It is difficult to understand how the Superintendent can be certain at a later date that the clerks were occupied with other duties at the time the General Yardmaster issued such instructions. Under the circumstances herein the Yard Clerk's statement is accepted, and the claim for the yard foreman will be sustained. There is no rule support for the claim of the helpers since they performed no service in weighing the car other than that which they would normally perform if the yard clerk had performed the service complained of.

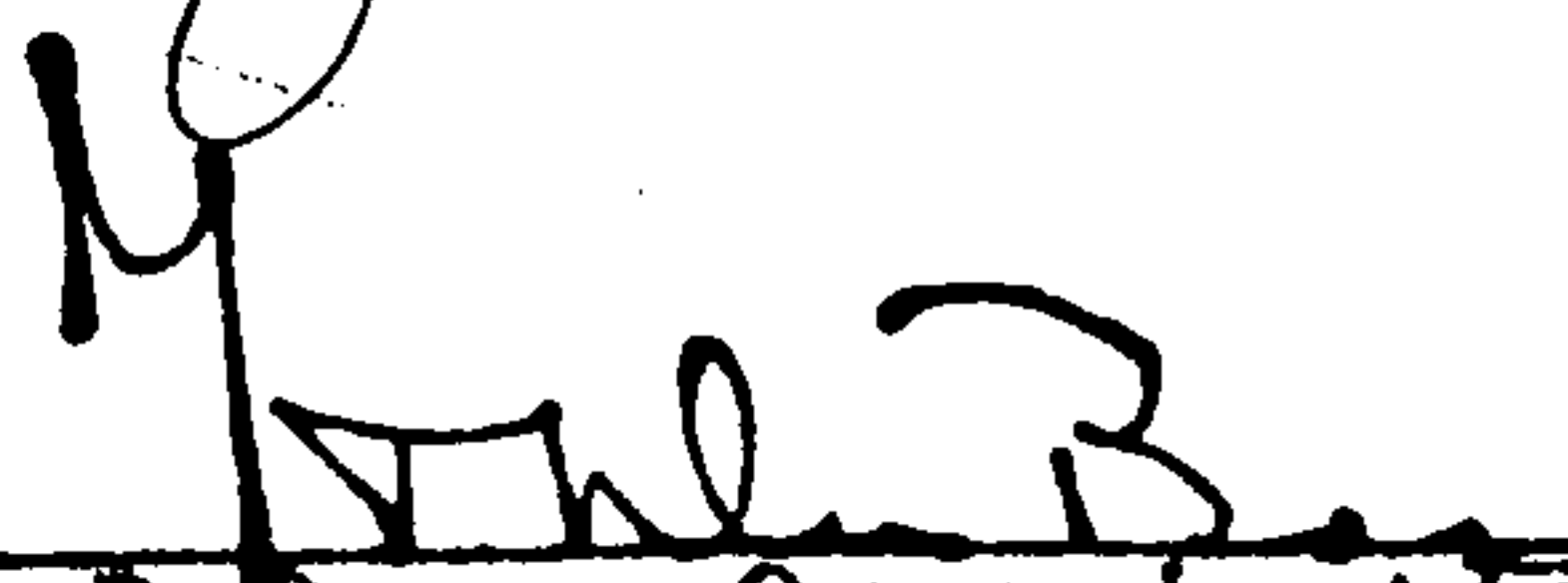
Therefore, the claim will be sustained for the yard foreman and denied for the helpers.

AWARD: Claim disposed of as per above.

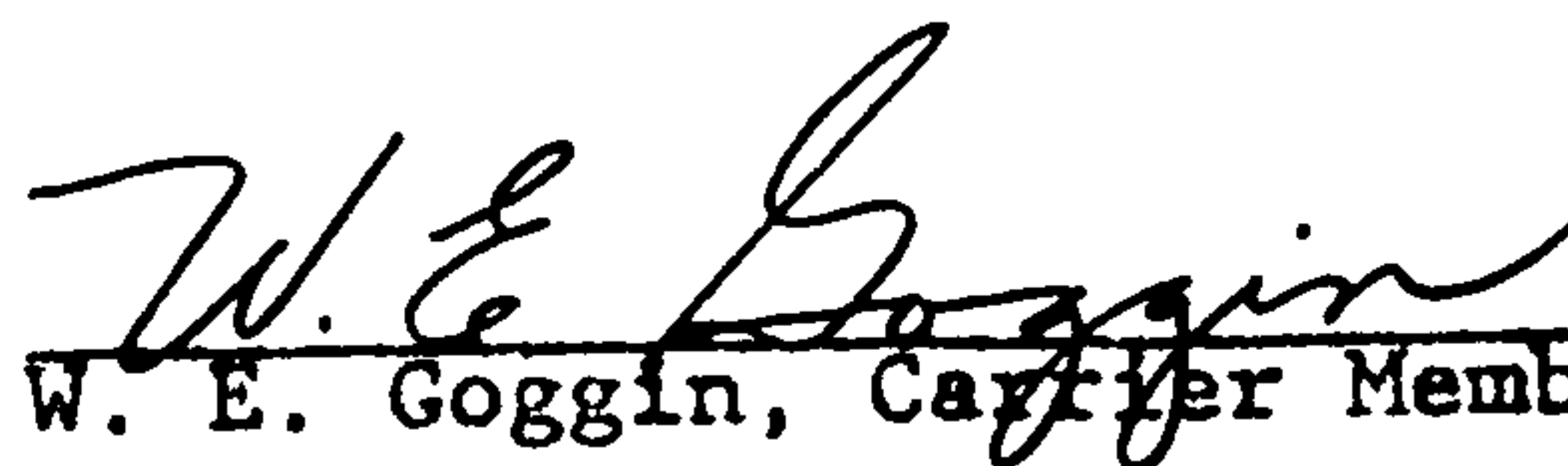
ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.



Preston J. Moore, Chairman



G. T. DuBose, Organization Member



W. E. Goggin, Carrier Member

I dissent.

Written dissent attached.

St. Louis, Mo.
April 14, 1983

Paid Yard Foreman only, eight (8) hours at yard rate.

CARRIER MEMBER'S DISSENT TO AWARD NO. 657 OF PUBLIC LAW BOARD NO. 912

Award No. 15 of this board denied claims at Peru, Indiana, based on similar facts and circumstances and similar positions of the parties as in the instant case.

In its findings in the instant award, the majority referred to a clerk signing a time claim stating that she was working and available to weigh the car, NW 318963, on October 12, 1981, and to the fact that there was no statement from the general yardmaster, who instructed the claimant to weigh the car, regarding whether he had inquired or checked to see if a yard clerk was available, and on that basis held that the Carrier violated Article 22, Paragraph C, of the Schedule for Yardmen by requiring the yardmen to perform that service and sustained the claim for the yard foreman, only.

In our opinion, a statement made by a clerk in connection with, and in the interest of, collecting a penalty time claim should not be sufficient evidence to discredit the Carrier's stated position that the clerks had sufficient duties to keep them fully occupied and, therefore, to require them to weigh cars would necessitate increasing the clerical force, nor to overturn a previous award on the same subject on the property (in which a statement from clerks was also submitted in evidence), therefore, we respectfully dissent.


CARRIER MEMBER

St. Louis, Mo.
April 14, 1983