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L 53-561

The Director of Wage and Service Records

The General Counsel

Addison Miller, Inc.

In General Counsel's Opinion L-43-374 it was held that service of wage earners under a contract dated June 4, 1925 between Addison Miller, Inc. and the Missouri Pacific Railroad Corporation in Nebraska, covering the handling of coal at coal chutes, power plants and stationary boilers at various points on the line of the carrier, was employee service within the meaning of the Railroad Retirement Act. See Employer Status List Item No. 4110 showing the period of creditable service as June 4, 1925 to August 31, 1927.

In view of the court decisions in Reynolds v. Northern Pacific Railway Company, 168 F. (2d) 934, cert. denied 335 U.S. 826, Nicholas v. Denver and Rio Grande Western Railroad Company, 195 F. (2d) 426 and Kelm v. Chicago, St. Paul, Minneapolis and Omaha Railway Company, 104 F. Supp. 745, affirmed C.C.A. 8th No. 14710, August 10, 1953, I conclude that the service in question is not employee service within the meaning of the Railroad Retirement Act, and General Counsel's Opinion L-43-374 is hereby reversed. Appropriate Form C-341 will be released giving effect to the foregoing.

Hyles F. Gibbons
General Counsel

HPC/dmc