

Award No. 2505
Docket No. 2187
2-CB&Q-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the provisions of the applicable agreements the Carrier improperly assigned Electrician H. Wood to fill the vacation vacancy of Electrician W. A. Koczek.

2. That accordingly the Carrier be ordered to compensate Electrician H. Wood for eight (8) hours at the time and one-half rate for June 5 and 6, 1954, and for eight (8) hours at the straight time rate for June 7 and 8 and all subsequent violations until Electrician Wood is restored to his regular bulletined assignment.

EMPLOYEE'S STATEMENT OF FACTS: H. Wood, hereinafter referred to as the claimant, is employed by the Chicago, Burlington & Quincy Railroad Company, hereinafter referred to as the carrier, at Clyde, Illinois. Claimant is an upgraded helper holding a regular assignment on the 12:00 MN to 8:00 A. M. shift Monday through Friday, rest days Saturday and Sunday.

Submitted herewith, identified as Exhibit A, is a copy of Bulletin No. 552, bulletining the assignment held by the claimant. Also submitted herewith, identified as Exhibit B, is a copy of Bulletin No. 552-A assigning the claimant to the above stated regular assignment.

On June 2, 1954, upgraded helper W. A. Koczek, with a regular assignment on the 12:00 MN to 8:00 A. M. shift, Wednesday through Sunday, rest days Monday and Tuesday, began his vacation.

The carrier assigned the claimant to fill the position with the consequence that the claimant's rest days were changed from Saturday and Sunday to Monday and Tuesday.

Claimant was required to render service on Saturday and Sunday, June 5 and 6, 1954, for which he was compensated at the pro rata rate.

The carrier has been unable to discover the agreement referred to by Mr. Elliott in this letter. In conference, the general chairman insisted we were obligated to use the junior man of the craft at the place where the vacation vacancy occurred to relieve the vacationing employee. The only requirement of this nature is contained in Article 12(b) of the vacation agreement, quoted supra, which states, "When the position of a vacationing employee is to be filled and regular relief employee is not utilized, effort will be made to observe the principle of seniority." There is nothing mandatory in this rule to require that the junior man of the craft, even though he be taken from another shift, be used to fill vacation vacancies. It is not the practice in the Clyde Diesel Shop to go outside the shift involved to fill vacation vacancies. Utilizing men of the same shift for this purpose enables them to follow the same work and rest habits, and does not disturb their customary sleeping hours.

It cannot be denied that an effort was made to utilize the principles of seniority in conformance with Article 12(b) of the vacation agreement. It was necessary that one of the two men on the third shift with Saturday and Sunday rest days fill this vacation vacancy—otherwise there would be only one electrician present on Saturday and Sunday. One electrician is not sufficient to handle the third shift work at Clyde Diesel Shop on those days. The way it worked out, Electricians Biskie and Wood were present on Wednesday and Thursday, June 2 and 3, Biskie, Wood and Dziak were present on Friday, June 4, Wood and Dziak were present on Saturday and Sunday June 5 and 6, and Biskie and Dziak were present on Monday and Tuesday, June 7 and 8. In selecting the man with Saturday and Sunday rest days, the carrier took the junior of the two who were assigned those days, Claimant H. F. Wood. The principle of seniority was followed, in accordance with Article 12(b) of the Vacation Agreement.

In summation the carrier feels that this claim should be denied for the following reasons:

1. The vacation agreement expressly permits the filling of vacation vacancies in the manner described herein.
2. The 40-hour week rules do not require the penalties claimed, since Electrician Wood took all the conditions of Electrician Kocek's assignment when he filled that vacation vacancy, including the Monday and Tuesday rest days of that assignment.
3. Second Division Award 1804 is conclusive, and decided all the issues herein in favor of the carrier.
4. The position of the organization that the junior man of the craft at the location involved must be used to fill vacation vacancies is not supported by any agreement between the parties.

This claim must be denied in its entirety.

FINDINGS: The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to this dispute were given due notice of hearing thereon.

In view of our Award No. 1804 the only real issue in this case is that raised by the organization's contention that "the claimant was not the junior employee of his craft and the carrier in directing the claimant to fill the position of Mr. Kocek improperly applied Rule 16 and the practice thereunder,

whereby the junior employe is assigned to fill a position that could not be filled by bulletin."

Rule 16 and practices thereunder for filling new positions or vacancies are not applicable to this situation because Article 12(b) of the Vacation Agreement provides that absence on vacation will not constitute a vacancy under any agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of June, 1957.