

**Award No. 3592**

**Docket No. 3323**

**2-CofG-CM-'60**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Wilmer Watrous when the award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION No. 26, RAILWAY EMPLOYEES'  
DEPARTMENT, A.F. of L.—C.I.O. (Carmen)**

**CENTRAL OF GEORGIA RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

- (a) That the Carrier has declined to properly compensate Car Inspector J. E. Harp, Cedartown, Georgia for his expenses and travel time during the time he was filling temporary vacation assignments at Rome, Georgia and Chattanooga, Tennessee between May 30 and August 16, 1957, both dates inclusive, under the current Shop Crafts Agreement, effective September 1, 1949.
- (b) That the Carrier be ordered to additionally compensate this employe during the aforesaid assignment in the amount of
  - 1) Three (3) hours at pro rata rate for each working day of the assignments he relieved at Rome, Ga., and Chattanooga, Tenn.
  - 2) Two (2) hours at pro rata rate for traveling time from his home point to point relieved, and two (2) hours at pro rata rate for traveling time returning to his home point for each work week worked away from his home point.

**EMPLOYEES' STATEMENT OF FACTS:** On May 23, 1957, the Central of Georgia Railway Company, hereinafter referred to as the carrier, posted a bulletin at all points on the Cedartown-Chattanooga District, as follows:

“CEDARTOWN—May 23, 1957,  
BULLETIN CN 18-57

**ALL CARMEN & HELPERS:**

A relief carman is being assigned to work during vacations of all regularly assigned carmen and helpers at Cedartown, Rome and Chattanooga on the following schedule:

1957. Cedartown, Georgia—Chattanooga, Tennessee is one seniority district under the effective agreement. There has been no violation whatsoever of the current agreement between the parties.

**POSITION OF CARRIER:** It is the position of carrier that the claim filed by Local Chairman J. L. Bookout is without merit and should be denied in its entirety. The claimant bid the job in and was awarded the position. He took the rate of pay, hours of assignment, work week, and rest days of the job. Cedartown, Georgia is 19 miles from Rome, Georgia via rail, and Rome, Georgia is 78 miles via rail from Chattanooga, Tennessee, all on the same line of railroad. Cedartown-Chattanooga is one seniority district. The men work at first one place and then the other within this seniority district, that is, they bid back and forth, etc. The pertinent seniority roster is reproduced below:

**“SENIORITY ROSTER — COLUMBUS DIVISION**  
(Revised to January 1, 1959)  
**“Cedartown-Chattanooga District**

CARMEN				
Number	Name	Location	Date	Ident. No.
1	J. L. Bookout	Chattanooga	4/26/25	7559
2	G. F. Bookout	Chattanooga	2/ 4/26	7542
3	T. L. Bookout	Cedartown	4/28/41	7568
4	R. H. Parker	Chattanooga	3/27/44	66800
5	J. D. Stewart	Chattanooga	8/15/49	84331
6	J. E. Harp	Rome	9/ 1/49	34733
7	R. A. Smith	Cedartown	9/ 1/49	80010
8	G. D. Slappy	Cedartown	9/18/57	78615
9	H. E. Conway	Cedartown	2/17/58	52007”

The record shows that Claimant J. E. Harp of his own volition bid in the vacation relief job in question. He did not go into it with his eyes closed. He knew the conditions. He bid in the job. It was his. Your Board and other divisions of the National Railroad Adjustment Board have consistently held in a long line of awards that an employe bidding in a position accepts all the conditions that go with the job. By conditions, we mean rate of pay, location, hours of assignment, work days, rest days, etc. Thus, none of the rules relied upon by the carmen are in point in this case. **There is no semblance of merit to the claim, and it should be denied in its entirety.**

It is the further position of the carrier that the burden of proof rests squarely upon the shoulders of the petitioners. See Second Division Awards Nos. 2938, 2580, 2569, 2545, 2544, 2042, 1996, and others. Also, see Third Division Awards Nos. 8172, 7964, 7908, 7861, 7584, 7226, 7200, 7199, 6964, 6885, 6844, 6824, 6748, 6402, 6379, 6378, 6225, 5941, 2676, and others—all of which clearly state that the burden is on the claimant party to prove an alleged violation of the agreement.

Carrier respectfully requests the Board to deny this claim in its entirety as it is wholly without merit for the reasons shown.

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

Parties to said dispute waived right of appearance at hearing thereon.

The claimant, J. E. Harp, bid a vacation relief position beginning May 30, 1957. Rule 1(e), specifying the method of paying expenses in traveling to outlying points, does not apply under these circumstances. However, Article 12(a) of the National Vacation Agreement of December 17, 1941, is applicable, reading in part as follows:

“However, if a relief worker necessarily is put to substantial extra expense over and above that which the regular employe on vacation would incur if he had remained on the job, the relief worker shall be compensated in accordance with existing regular relief rules.”

J. E. Harp was necessarily put to substantial extra expenses in certain of his vacation relief assignments.

The Board holds that where Rule 12(a) used the wording “necessarily is put to substantial extra expense” it established the requirement that the relief worker must actually incur substantial extra expense as a consequence of his assignment. The claimant in this dispute did not show that he incurred extra expense as a consequence of his vacation relief assignments in Chattanooga, Tennessee.

The carrier is directed to compensate J. E. Harp for travel and expenses according to Rule 1(e), regular relief rule, for those assignments on vacation relief that claimant filled at Rome, Georgia.

#### AWARD

Claim is sustained to the extent indicated in the findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of November, 1960.