

Award No. 5624

Docket No. 5429

2-CB&Q-EW-'69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement Electrician Helper Sam Fletcher was unjustly deprived of work when he was not permitted to work his regular assigned position on April 18, 1966.

2. That accordingly, the Carrier be ordered to compensate this employe in the amount of eight (8) hours at the straight time rate of pay.

EMPLOYEES' STATEMENT OF FACTS: Electrician Helper Sam Fletcher, hereinafter referred to as the Claimant, is employed by the Chicago, Burlington and Quincy Railroad Company, hereinafter referred to as the Carrier, at its 14th Street Coachyard, Chicago, Illinois. His regular assigned hours on April 18, 1966, were on the third shift of 12:00 Midnight to 8:00 A. M.

The Claimant was absent from work on April 16 and 17, 1966, due to illness. On each of the two nights of April 16 and 17, 1966, the Claimant called in to notify his supervisor that he would not be able to report for work due to illness and when he made the call of Sunday, April 17, 1966, he advised his supervisor he would return to work on Monday night, April 18, 1966.

On Monday night, April 18, the Claimant reported for service on his regular assigned shift. Foreman D. Edwardson did not allow him to work his assigned shift and sent him home, alleging that the Claimant did not call in prior to returning to work on Monday night.

A claim was filed with the proper officer of the Carrier under the date of April 26, 1966, contending that the Claimant was entitled to compensation of eight (8) hours at straight time rate for being denied the right to work his assigned position in accord with the current agreement, and subsequently was handled up to and including the highest officer of the Carrier designated to handle such claims, all of whom declined to make satisfactory adjustment.

On the basis of the information contained in this statement, payment of this claim has been refused by the Carrier.

The Carrier submits that this Board must accept the statement of Lead Machinist Peraino as the true facts in this case. If the word of the Supervision can be contested by an off-duty employe, there will be no occasions to apply paragraph (f) of Rule 19. The parties have entered into this provision of the contract in order that the Carrier may have some advance knowledge of how to line up work, and what forces to expect on duty. An employe should not be permitted to gain by merely challenging the word of the Lead Machinist, and alleging that the rule was complied with, when in fact it was not.

In addition the Board should take notice that the Carrier has nothing to gain by holding an employe out of service for an additional day in compliance with paragraph (f) of Rule 19. However, since Foreman Edwardson already had his work lined up for the third shift beginning at midnight on Monday, April 18, 1967, he could not fit into that schedule Electrician Helper Fletcher. To have permitted the claimant to work that shift would have meant disrupting the entire lineup, redistributing the work among the employes on duty, merely because of the unannounced appearance of the claimant. Local supervision should not have to contend with problems such as this.

(Exhibits not reproduced.)

FINDINGS: The Second Division of the Adjustment Board, 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.

In this case, there is absolutely nothing of probative value to sustain the claim. As a matter of fact, there is nothing in the record to indicate from whom or from what source the General Chairman received information to the effect that the employe in whose behalf the claim has been progressed allegedly stated when he called his foreman on April 17, 1966, that he intended to return to work on April 18, 1966. Foreman Peraino, in letter dated May 14, 1966 (Carrier's Exhibit No. 2) contends he did not. This stands unrefuted.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of January, 1969.

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