

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (System Federation No. 106, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Washington Terminal Company

Dispute: Claim of Employes:

1. That the Carrier violated the controlling agreement on January 18, 1976 when they failed to call Car Repairman Frank Cover to fill a vacant position of Car Repairman in accordance with the 1975 Vacation Agreement.
2. That accordingly the Washington Terminal Company be ordered to compensate Car Repairman Frank Cover in the amount of one day's Pay.

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.

Involved in this dispute is a one-day replacement for a Car Repairman who was on scheduled vacation from his shift, commencing at 8 a.m. Claimant, who was on duty for the preceding 12 midnight to 8 a.m. shift in the same classification, alleges that he should have been requested to remain on duty for an additional shift to fill the vacancy.

The Board finds the dispute has been properly progressed through the appeals procedure. Two questions require resolution: 1) Was either the 1975 or 1976 vacation agreement between the parties in effect on January 18, 1976? and if so, 2) Was the Claimant entitled to perform the work?

The vacation agreement covering 1975 was signed on February 12, 1975 and the agreement covering 1976 was signed on January 30, 1976. They are virtually identical with each other and provide detailed specifications for vacation relief procedure. Drawing from the documents themselves, the Board does not find that the parties intended there be a hiatus in their vacation relief arrangements between January 1, 1976, and January 30, 1976. As is evidenced by the facts of the dispute, at least one employe was already on vacation in January 1976, and some arrangement concerning relief on his position can be inferred from both the 1975 and 1976 vacation agreements. For the purpose of resolving this dispute, it can be logically assumed either that the 1975 vacation agreement was in effect until superceded and/or that the 1976 agreement was intended to be retroactive to include January 1976.

Thus the Board finds the vacation agreement applies here, specifying relief procedure for the Car Repairman job in question. The record shows that Carrier had provided vacation relief, but the employe assigned was needed in another position. Carrier further states, "An attempt was made to fill the vacancy in question."

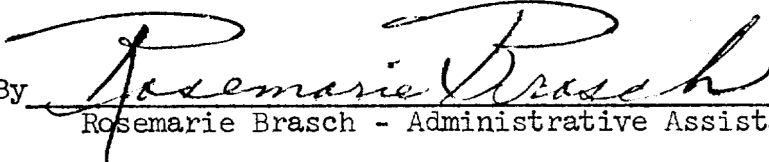
As to Claimant's availability, the record shows that the Carrier was unaware of the need to fill the vacancy by other than the employe assigned thereto until the start of the shift. However, at that time -- that is, just prior to or at 8 a.m. -- the Carrier could have requested the Claimant to "double over". It failed to do so. Claimant was on the property and completed his assigned shift at 8 a.m. Previous awards have delineated the reasonable efforts required of a carrier to ascertain the availability of employees. See especially Third Division Award No. 21222 (Lieberman).

A W A R D

Claim sustained, with pay at the pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of June, 1978.