Award No. 2518
Docket No. 2257
2-SLSW-CM-'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. 45, RAILWAY EMPLOYES' DEPARTMENT A. F. of L.-C. I. O. (Carmen)

ST. LOUIS-SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That the Carrier has declined to properly compensate Car Inspector F. M. Springer of Illmo, Missouri for his actual expenses during the filling of a temporary assignment at Malden, Missouri October 5 through 16, 1953 and on October 22, 23, 24, 26, 27, 30 and 31, 1953 under the current agreement.

2. That accordingly the Carrier be ordered to additionally compensate this employe during his aforesaid assignment in the anount of:

a) $36.00 for driving his own automobile from his home point to the point of his temporary assignment.

b) $64.00 as reimbursement for meals and lodging.

EMPLOYES' STATEMENT OF FACTS: On September 21, 1953, temporary promoted Car Inspector F. M. Springer and hereinafter referred to as the claimant, was furloughed at his home point, Illmo, Missouri, and was used until November 27, 1953, to fill vacation jobs and regular vacancies at that point. Effective October 5, 1953, temporary promoted Car Inspector O. T. Finley, employed at Malden, Missouri on regular assignment, was scheduled to begin his annual vacation of ten days. A few days prior to October 5, general foreman, Mr. G. G. Hunter, notified claimant of the job, and asked him if he would be willing to fill Car Inspector Finley's assignment during his vacation. Claimant agreed to fill the job and reported for work at Malden, on October 5. Upon completion of that assignment he returned to Illmo, and was contacted again to fill new car inspector's job at Malden, pending advertisement and assignment. Claimant reported for work at Malden again, and filled this assignment for one three-day period and two two-day periods between October 22 and 31, at which time the job was pulled off, without bulletin having been posted.

When claimant's relief assignment was concluded on October 31, he returned to his home point, following which he turned in claim to General Foreman Hunter for car mileage, meals and lodging expenses. Mr. Hunter

that President Hunter emphasizes the fact that this proposed agreement is intended to apply only to **furloughed employes** so used on vacation vacancies. President Hunter states in subsequent correspondence on this same subject, his letter May 18, 1955 (Exhibit 10):

> "We request that you give us your decision on this matter at an early date. We entered the negotiations of a Memorandum of Agreement to cover this matter with good faith, fully realizing such an Agreement was necessary, and pending your acceptance of the proposed agreement, the various General Chairman have done everything possible to furnish employes to relieve the regular assigned men for vacations, and in some cases have failed."

Thus employes agreed that Rule 10 is not applicable to furloughed employes and urge the acceptance of a memorandum of agreement to provide payments to furloughed employes, as in the instant dispute, that are not now provided for in the existing rules.

Employes have also contended in a similar case on this property, that Rule 10 becomes effective for furloughed employes on the basis of Referee Morse's interpretation of Article 12 (a) of the Vacation Agreement. That portion of Referee Morse's opinion (pages 99 and 100) reading:

> "As pointed out by the spokesman for the employes on page 803 of the transcript, the position of the carriers would result in penalizing and imposing upon the vacation relief worker in order to provide another employe with the benefits of a vacation. It obviously, would not be fair to apply the benefits of a relief rule in the case where an employe relieves a fellow employe who is ill or off duty for some reason other than the taking of a vacation, but to deny him benefits of the same rule if he happens to relieve an employe who is on vacation."

shows that Rule 10 is not applicable in the case of vacations, since it is not applicable to furloughed employes relieving employes for other reasons. The referee makes it plain that benefits which would apply to an employe under relief rules, when furnishing relief for reasons other than the taking of a vacation, should not be denied the same employe when providing vacation relief. Furloughed employes do not receive the benefits provided by Rule 10 for regularly assigned employes, when furnishing relief on this property for any cause and conversely, the referee's opinion does not provide that furloughed employes furnishing temporary relief on a vacation vacancy should receive any additional advantages over those he would receive if furnishing relief for a fellow employe off duty account illness or for other cause. Obviously the interpretation of Article 12 (a) of the Vacation Agreement does not support the contention of employes that Rule 10 must be applied to furloughed employes used to relieve regularly assigned employes for vacation.

It is clearly evident this claim is not supported by the rules and carrier submits that it should be denied.

FINDINGS: The Second Division of the Ajustment 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.

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

The claimant was a furloughed car inspector at Illmo and was offered and accepted opportunity to work position of Car Inspector Finley at Malden while the latter was absent on vacation. Claimant so worked from October 5 to 16, 1953. Subsequently, he was offered opportunity to fill new position of car inspector at Malden pending bulletin and assignment. He so worked on the other dates specified in the claim.

His claim for expenses is based on Rule 10 which clearly applies only to "regularly assigned employes sent out to temporarily fill vacancies at an outlying point". The claimant was a furloughed employe not a regularly assigned employe.

Article 12 (a) of the Vacation Agreement reads 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."

In the interpretations of July 20, 1942 the committee, established pursuant to Article 14 of the Vacation Agreement, held that the term "relief worker" used in Article 12 (a) describes in general terms all persons who fill the positions of vacationing employes. Hence it encompasses the claimant and makes applicable to him the regular relief rules for substantial extra expense not incurred by the regular incumbent of the position. Such are his expenses for transportation, meals and lodging and they must be allowed to the extent provided in Rule 10, the regular relief rule.

With respect to his claim for expenses while filling a temporary vacancy pending bulletin and assignment there is no rule applicable to him to support the claim, so it must be denied.

AWARD

Claim sustained to the extent stated in the findings.

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.