

Award No. 3781
Docket No. 3534
2-P&LE-TWUOA-'61

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

**TRANSPORT WORKERS UNION OF AMERICA, RAILROAD
DIVISION, A. F. of L.-C. I. O.**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY AND
THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: On May 19 and 20, 1958, car inspector's job held by John Panella, regular car inspector, was blanked. On May 22, 1958, car inspector's job held by Fred Smith was blanked.

At Pittsburgh Station the Organization does have an extra board.

John Napiecek is an extra inspector on this extra board. He was entitled to fill the jobs blanked.

The Organization feels that Rule 48, paragraph (c)-(1) was violated and for this reason the Organization requests that the Carrier compensate John Napiecek, eight (8) hours for each of the following days that the jobs were blanked, May 19, 20 and 22, 1958.

EMPLOYES' STATEMENT OF FACTS: This case arose at Pittsburgh, Pa. and is known as Case Pgh. Sta.-35.

The extra board rule was negotiated after the vacation agreement was negotiated and should supersede the vacation agreement.

The carrier did blank the jobs on the given dates and this is in violation of the present agreement.

There is nothing in Rule 48, "Extra Boards" that gives the carrier the right at any time to blank any job, but according to this rule if an employee is off his job shall be filled by an extra employee.

The Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective May 1, 1948 and revised March 1, 1956 with the Pittsburgh & Lake Erie Railroad Company and the Lake Erie & Eastern Railroad Company, covering carmen, their helpers and apprentices, (Car & Locomotive Departments), a copy of which is on file with the Board and by reference hereto, is made a part of these statement of facts.

CONCLUSION

The carrier has shown that when the regular incumbent of a position is absent on vacation, there is no obligation upon the carrier to fill that position unless the amount of work to be performed by the remaining employees would create an undue hardship upon such employees. In the instant case, no undue hardship upon the remaining employees was shown to exist and the carrier, in filling the vacation vacancy on two days and blanking it on the two days here in dispute, acted within the rights granted it under Article 6 of the National Vacation Agreement of December 17, 1941.

Further, the carrier has shown that when a car inspector marks off duty of his own accord, the practice has been to review the work contemplated on the particular trick involved to determine whether or not it would be necessary to fill the position of the man marking off duty. If a sufficient amount of work does not exist to justify the use of an inspector for a full eight-hour assignment, the position is blanked.

Awards of the Second and Third Divisions of the National Railroad Adjustment Board have been cited in support of carrier's position.

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 employees 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 were given due notice of hearing thereon.

Complaint is made because on two days the job of a vacationing car inspector was blanked and on another day the job of an inspector who laid off for the day was blanked instead of being filled from the extra board.

Employes rely on Rule 48(c):(1)

"Extra employes to be used as follows:

(1) When regular or regular relief employees are off duty for any reason."

It does not appear to have been the intent of that agreement to prevent blanking a position when the employe is off duty and no work is required; rather, it required the use of an extra employe when the work was sufficient to make necessary the filling of the position.

As to the first two days when the job of the vacationing employe was blanked, it appears that a vacation relief worker was not needed on those days and there is no showing that the blanking of the job on those days burdened other employees or the vacationing employe. They were properly blanked under Article 6 of the Vacation Agreement.

As to the third day, on review of the amount of work contemplated it was decided that it was not necessary to fill the assignment on that day and Rule 48 was not violated in blanking it.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1961.