



**Award No. 5027**

**Docket No. 4909**

**2-GN-CM-'67**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

**The Second Division consisted of the regular members and in addition Referee Harold M. Weston when award was rendered.**

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**GREAT NORTHERN RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That Carrier violated the current agreement when they assigned an employe not on the overtime call list to work on his rest days.

2. And that accordingly the Carrier be ordered to additionally compensate Carmen John Skuya and Gerald Giles in the amount of eight hours each, at the rate of time and one-half, for being denied the right to work on February 17 and 18, 1964.

**EMPLOYEES' STATEMENT OF FACTS:** The Great Northern Railway Company, hereinafter referred to as the carrier, maintains car repair facilities at Sioux City, Iowa. Carman E. J. Paquin is regularly employed by carrier at Sioux City as a carman and regularly assigned as a "write-up man" with work week of Monday through Friday 8:00 A. M. to 4:00 P. M., rest days Saturday and Sunday. Carman Paquin commenced two (2) weeks vacation on February 17, 1964 returning to service March 2, 1964.

Carman Stanley Morgan is regularly employed by carrier at Sioux City as a carman and regularly assigned on the repair track to work Wednesday through Friday 8:00 A. M. to 4:00 P. M. as a carman and Saturday and Sunday as a relief car foreman. His rest days are Monday and Tuesday.

During Carman Paquin's vacation Carman Stanley Morgan was called on his rest days Monday and Tuesday, February 17 and 18 to work Paquin's job, and was subsequently used to fill same on Wednesday, Thursday and Friday, February 19, 20 and 21. On Saturday and Sunday February 22 and 23, Carman Morgan worked his own assignment of relief car foreman. Carman Morgan then observed his rest days of Monday and Tuesday, February 24 and 25. On Wednesday, Thursday and Friday February 26, 27 and 28, he again filled Carman Paquin's assignment of "write-up man" and then filled his own assignment of relief car foreman on Saturday February 29 and Sunday March 1.

5. Paragraph B of "Memorandum of Agreement No. 29 (Rev.\*)" has absolutely no application to the filling of vacation relief assignments. Therefore, it very obviously cannot provide contractual support for the instant claim.

6. As the facts of record clearly demonstrate, Carman Morgan's assignment to the vacation vacancy in question was made in full compliance with the provisions and interpretations of the National Vacation Agreement.

7. Since Morgan was not a regular vacation relief worker, the carrier acted in accordance with Article 12(b) of the December 17, 1941 Vacation Agreement when it made an effort and, in fact, was able to observe the "principle of seniority" in making the disputed assignment.

8. During the time Morgan was filling Carman Paquin's assignment he assumed the Saturday and Sunday rest days of that assignment and all of its other working conditions. Consequently, the organization is in error when it alleges that the two dates in question — Monday and Tuesday, February 17 and 18, 1964 — were Morgan's rest days.

9. The organization's misapplication of "Memorandum of Agreement No. 29" and its deliberate refusal to give any effect to the provisions and interpretations of the National Vacation Agreement are in direct conflict with the universally recognized principle of contract construction that the various sections of the parties' collective bargaining agreements must be construed together and effect given to all parts so that they are consistent and sensible.

10. Even if paragraph B of "Memorandum of Agreement No. 29 (Rev.\*)" clearly supported the organization's position in the instant case, the claimants' inability to perform Carman Paquin's car repair write-up work would have relieved the carrier of any obligation to call them to fill Paquin's assignment on the dates in question.

For the foregoing reasons, the carrier respectfully requests that this claim be denied.

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

While Carman Paquin was on vacation from February 17, to March 2, 1964, Carman Morgan was called upon to fill the vacancy in Paquin's position on February 17, 18, 19, 20, 21, 26, 27 and 28. The gist of the present claim is that Carrier violated Article B of Memorandum of Agreement No. 29 of March 1, 1955, by using Morgan instead of Claimants to fill Paquin's vacancy on February 17 and 18. These two days were Morgan's and Claimant Giles' rest days. February 17 was Claimant Skuya's rest day.

Article B reads as follows:

"Employees for overtime source will be obtained first by calling the employees who are on rest days on the shift involved. Additional employees, if needed, will be called first from the overtime list of the preceding shift; and if still more employees are needed, they will be called from the overtime list of the following shift."

While the three employees in question were all on "the shift involved", Claimants, unlike Morgan, were also on the overtime call list. However, Article B applies only to overtime service and the disputed vacancy was not overtime work as such but a vacation vacancy that was to be filled in accordance with the terms of the vacation agreement. The fact that the first two days of the vacation vacancy happened to fall on Morgan's or Claimants' rest days and that Morgan therefore may have been entitled to time and one-half pay do not affect the situation. Carrier was filling a vacation vacancy and, in designating Morgan for the work, complied with vacation agreement requirements. The question as to what rate of compensation Morgan is entitled is a different issue.

The claim accordingly must be denied.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1967.