

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13283

Docket No. 13248

98-2-97-2-13

The Second Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)

STATEMENT OF CLAIM:

"Claim of the Committee of the Union that:

- 1. That the Carrier violated Rule 1, of the controlling Agreement as amended, on November 4 and November 5, 1995 through the circumvention of the overtime call board.**
- 2. That the Carrier be ordered to recompense Carman R.E. Dennis the amount of eight (8) hours at the time and one-half rate.**
- 3. That the Carrier be ordered to recompense Carman R.R. Roberts the amount of seven (7) hours and thirty (30) minutes at the time and one-half rate."**

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 were given due notice of hearing thereon.

A Carman with Saturday and Sunday as rest days requested to fill a five day vacation absence which had rest days of Wednesday and Thursday. Because the vacation relief Carman worked Saturday and Sunday, which was his sixth and seventh consecutive days of work, the Organization filed the claim now at the Board contending that the Carrier violated paragraph (c) of Rule 1 which reads as follows:

“(c) There is hereby established for all employes covered by this agreement, subject to the exceptions contained hereafter in this rule and Rule 12, a work week of 40 hours, consisting of five days of eight hours each, with two consecutive days off in each seven; the work weeks may be staggered in accordance with the Management’s operational requirements; so far as practicable the days off shall be Saturday and Sunday. The foregoing is subject to the provisions of this rule which follow. . . .”

Claimant was regularly assigned to a position of 40 hours with two consecutive rest days, i.e., Saturday and Sunday. He requested and was assigned to work a five day vacation absence which was scheduled to work Friday through Tuesday. He worked Monday through Thursday on his regular assignment, Friday through Tuesday on the vacation absence, was then off Wednesday and Thursday, the rest days of the vacation absence, worked Friday on his regular assignment and then was off Saturday and Sunday, the rest days of his regular position.

According to the Carrier, this has been the historic practice at this point in filling vacation absences, a practice not denied by the Organization.

For the Carrier to be in violation of Rule 1 it would have to be evident that it created positions or a position which somehow, in some manner, violated the purpose and intent of Rule 1. Neither the position to which the Claimant was regularly assigned, nor the position vacant because of a vacation has been shown to have been established in violation of Rule 1, nor can it be said that by allowing the vacation relief man to work as he did, that such action violated Rule 1.

The Organization has not demonstrated by sufficient evidence that Rule 1 has, in this instance, been violated.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 18th day of May 1998.