

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13455

Docket No. 13372

99-2-98-2-59

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

**(Brotherhood Railway Carmen, Division of Transportation
(Communications International Union**

PARTIES TO DISPUTE: (

(Union Pacific Railway Company

STATEMENT OF CLAIM:

“1. The Carrier was in violation of, but not limited to, Appendix 8, Section 10, Paragraph B of the controlling Agreement on June 6, 1997 when the Carrier failed to fill a vacancy due to an employee taking a vacation and the equivalent of twenty-five (25) percent or more of the work load that was distributed among fellow employees at the Baily Yard, North Platte, Nebraska.

2. Carrier shall compensate Claimant, R. L. Sunderstrom for eight (8) hours at the current rate at time and one half.”

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 claim was filed on June 10, 1997 alleging that the Carrier violated Appendix 8, Section 10(B) of the controlling Agreement when it failed to fill a vacancy due to an employee taking a one (1) day vacation.

A review of the record shows that the Carrier states, in denying the claim, that the vacancy in question was not the result of the employee taking a vacation day, but that it was the result of this employee taking a paid, personal leave day.

Absent rebuttal by the Organization with respect to this point the Board must conclude that Appendix 8, Section 10(B) has no application to the facts of this case and that the burden of proof has not been sufficiently met by the moving party. Accordingly, the claim is denied.

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 25th day of August 1999.