

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis J. Robertson, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA
RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood:

(a) That Carrier violated Agreement Rules when it failed and refused to allow Carson Hutchinson, Trucker, St. Paul Station Freighthouse, compensation of \$8.64 for each day, February 13, 14, 16, 18, 19, 20 and 21, 1948, and

(b) That Carrier shall now reimburse Trucker Hutchinson, \$60.48 under provisions of Rule 51 of current Rules Agreement, dated and effective July 16, 1926.

EMPLOYES' STATEMENT OF FACTS: Carson Hutchinson, with seniority date of April 30, 1941, on St. Paul Station Class 2 seniority roster, was a Trucker on February 11, 1948.

Trucker Hutchinson was held out of service as physically unfit to perform his duties, effective February 12, 1948, on report and instructions of Carrier Medical Director, being restored to duty on February 26, 1948 on certification of the same Carrier officer.

His position was filled on February 12, 17, 24 and 25, but unfilled on February 13, 14, 16, 18, 19, 20 and 21, 1948.

On return to duty, February 26, Trucker Hutchinson filed Carrier Form OD 309 for compensation on dates absent, when his position was not filled, under provisions of Rule 51.

Form OD 309 was returned by Agent February 27, disapproved.

On appeal, Trucker Hutchinson's claim has been declined for payment by Superintendent of Twin City Terminal Division and Director of Personnel.

POSITION OF EMPLOYES: There is in evidence an agreement between the parties bearing effective date of July 16, 1926, from which the following rules thereof read:

RULE 48—Notified when Disallowed.

When time is claimed in writing and such claim is disallowed, the employe making the claim shall be notified in writing and reason for non-allowance given.

OPINION OF BOARD: This case was presented as a companion case to Awards Nos. 4434 and 4435. The factual situation, however, is different in two respects: (1) the absence involved the sick leave portion of the rule, and (2) Carrier's Superintendent, in a letter to the General Chairman dated March 24, 1948, pointed out specific reasons which in his judgment justified the disallowance of the claim. This judgment we are not inclined to disturb for we find no basis upon which to consider it as having been unreasonably exercised. Accordingly, we hold that a denial Award is in order.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 30th day of June, 1949.