

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

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

WESTERN WEIGHING AND INSPECTION BUREAU

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

(a) The Bureau violated the Agreement by not assigning Paul O'jeda, Serviceman, Hutchinson, Kansas, rate of pay \$1.553 per hour, to the Foreman's position during the absence of the regular Foreman, Sam F. Cochran, rate of pay \$15.60 per day, on vacation during the period August 4 to August 16, 1952.

(b) That Serviceman Paul O'jeda should have been assigned to this temporary vacancy of such position in place of junior employe, Serviceman A. J. Manche.

(c) That Serviceman Paul O'jeda be reimbursed for the difference between what he was paid as Serviceman and what he should have been paid as the Foreman, Hutchinson, Kansas during the period referred

of the land when we were previously told by this Claimant that he could not drive because he did not have a driver's license; therefore, under the circumstances we had but one alternative, and that was to utilize the services of one of our employees who had a driver's license, thus permitting him to drive our truck.

We are convinced beyond an element of doubt that after reviewing the facts as herein presented you will reach but one conclusion and that is by reason of the Claimant's very action eliminating himself from driving our truck that only one conclusion can be reached and that is this claim must be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to the filing of this claim the Carrier had been in the custom of requiring the Claimant to drive a truck in connection with his work.

In February, 1952, Claimant advised the Carrier he did not have a driver's license, and therefore could not drive the truck any more.

Driving the truck was part of the assigned duties of Foreman Cochran, but was not a part of the assigned duties of Claimant, but even so he did obtain a driver's license in April of 1952, but did not advise Cochran of that fact, so when it came time for Cochran to go on his vacation, he assumed that Claimant still had no driver's license and assigned Manche—a junior employe, to his (Cochran's) vacation assignment.

Cochran did not post the vacation assignment and made no effort to contact Claimant concerning his availability for the vacation vacancy, although Claimant had filled it in 19

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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 violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March, 1958.