

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Oliver Crowther, Referee

PARTIES TO DISPUTE:

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

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: Claim of the Terminal Board of Adjustment of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that:

(a) The Carrier violated the rules of the current Working Agreement when on Thursday, August 9, 1956 and again on Thursday, August 16, 1956, it refused to let Ticket Seller Henry Peterson work the position at Window No. 1, Ticket Office Union Station, St. Louis, Missouri, to which he had been assigned by bulletin posted on the Ticket Sellers' bulletin board.

(b) Mr. Peterson now be reimbursed in the amount of \$4.91 for each of these two dates which is the difference in the amount of pay he would have earned if he had been permitted to fulfill his assignment and the actual amount which he did receive on the assignment to which he was moved.

EMPLOYES' STATEMENT OF FACTS: On August 2 and again on August 9, there was posted on the Ticket Sellers' bulletin board, a list of the employees who were to be on vacation the weeks of August 6 to 12th inclusive and August 13 to 19th inclusive. These bulletins are attached hereto and identified as Employees' Exhibits A and B. On Exhibit A, the employee at the top of each of the columns is the one to be on vacation and the name immediately under it is the employee assigned to relieve the one on vacation—other names in each column indicate moves in filling the various vacancies. It will be noted on each of these bulletins that Ticket Seller Peterson was assigned to relieve Ticket Seller Bender.

Ticket Seller Bender, who was on vacation from August 6 to 19th inclusive holds a regular assigned Relief Position and during his five-day week relieves the following employees on their days of rest:

It was the exercise of such judgment of qualifications, certainly a management prerogative, that led to the use of another employe, rather than the claimant Peterson, to fill this important position on August 9 and 16, 1956.

This claim has no legitimate basis and should be declined.

All data submitted in support of Carrier's position has been presented to the duly authorized representative of the Employes and made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: At the time of the claim herein, Claimant was regularly assigned as relief ticket seller relieving regular ticket sellers Wednesday through Sunday, with Monday and Tuesday as rest days.

The regular incumbent of another relief ticket seller's position relieving regular ticket sellers on Tuesday, Wednesday, Friday and Saturday, and the Day or Night Ticket Agent (partially excepted positions) on Thursday, was scheduled to take his vacation August 6 through 19, 1956. Claimant requested and was assigned to fill this relief position during the regular incumbent's absence on vacation. It is undisputed that, at the time of his assignment thereto, Carrier did not inform Claimant that he was not qualified and therefore would not be permitted to relieve the Day or Night Ticket Agent on Thursdays, August 9th and 16th; he was not notified thereof until some time later, the exact time of such notification being in dispute.

If Carrier felt in advance that Claimant was not qualified to fulfill all of the requirements of the position during the regular incumbent's absence on vacation, it should have, as stated by Petitioner herein, so advised him at the time and denied his request for assignment to the position. In the particular circumstances disclosed by the record in this case, the claim will be allowed.

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 Employee involved in this dispute are respectively Carrier and Employee 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 claim is disposed of in accordance with Opinion.

AWARD

Claim sustained in accordance with Opinion and Finding.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1960.