

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Eugene Russell, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated the Agreement when, at Atlanta, Georgia, on Saturday, April 6, 1957, and Sunday, April 7, 1957, it compensated Clerk P. H. Browning at pro rata rate instead of time and one-half for work required of him on his rest days.

(b) The Carrier shall now be required to compensate Claimant P. H. Browning for the difference between what he was paid for April 6 and 7, 1957, and time and one-half the rate of his own position, or the position worked, whichever is higher.

EMPLOYEES' STATEMENT OF FACTS:

1. On the dates that claim arose, Claimant P. H. Browning was assigned by bulletin to the position of "Utility Clerk", hours 8:00 A. M. to 5:00 P. M., one hour meal period. The assigned work week of the Utility Clerk position was Tuesday through Saturday, Sunday and Monday being rest days.

2. Beginning on Tuesday, March 26, 1957, Claimant Browning worked the position of Utility Clerk the scheduled five days, Tuesday through Saturday. He observed Sunday as one of his earned rest days. On Monday, April 1, 1957, Claimant Browning was temporarily assigned to the position of Collector, 8:30 A. M. to 5:30 P. M., meal period one hour. The position of Collector was assigned a work week of Monday through Friday, Saturday and Sunday being rest days. The regular occupant of the position was on vacation during that work week of his position. (Note: Claimant Browning should have been paid time and one-half for working Monday, April 1, but since he did not claim such rate, that issue is not presented to the Board).

3. Claimant Browning worked the position of Collector Monday, April 1, 1957, through Friday, April 5, 1957. On Saturday, April 6, 1957, through Wednesday, April 10, 1957, Claimant Browning was required to work the

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"Mr. Taylor is absolutely correct in stating ' * * * Browning was simply moving from one vacation vacancy to another, * * * .' He was not moving from one assignment to another as provided in Rule 27 (b). He was doing exactly what Mr. Taylor stated 'moving from one vacancy to another.' There is no provision in the rules providing that an employe moving from one vacancy to another can be worked more than forty hours in a work week without paying him time and one-half rate therefore. Moving from one vacancy to another is not the equivalent of moving from one assignment to another."

As the positions of utility clerk, collector, and relief clerk occupied by Claimant Browning, Mr. Julian, and Mr. Goolsby constitute three separate and distinct assignments, each having different work weeks and rest days. it is evident that moving from a vacancy in one assignment to a vacancy in another is moving from one assignment to another, and is subject to the exception contained in Rule 27 (b).

"Moreover, Rule 10 (b) specifically excepts the payment of over-time rates for service in excess of 5 days or 40 hours 'where such work is performed by an employe due to moving from one assignment to another.' And the Claimant in this case clearly moved from his regular switching clerk assignment to fill the temporary vacancy on a different assignment."

NOTE: Rule 10(b) became Rule 27(b) of the agreement revised as of June 1, 1952.

In Award 6973, furloughed Clerk J. L. Cooper, at Macon, Georgia, freight agency, worked six consecutive days Monday through Saturday on two different clerical assignments. The Board held that Saturday, August 12, 1950, was a work day of the assignment he was temporarily filling for 5 days while the regular occupant was on vacation, and denied the claim for pay at time and one-half rate for that day.

In its essential aspects, this claim is not distinguishable from the claim which led to our awards 6561 and 6973 between these same parties. We see no valid reason for reaching a different result in this case, and accordingly, hold that the instant claim lacks merit.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of May 1962.