

Award No. 13319

Docket No. CL-13427

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5162) that:

(a) Carrier violated current Clerks' Agreement at Fort Worth, Texas, when it denied, to Mrs. D. J. Griffin, payment for living expenses while performing relief work away from her point of headquarters; and,

(b) Mrs. Dorothy J. Griffith shall now be paid for:

December 13, 1960 for meals	\$ 2.90
December 14, 1960 for meals	3.15
December 15, 1960 for meals	3.10
December 16, 1960 for meals	2.85

TOTAL \$12.00

For Lodging—

(December 13th to December 16th @ \$2.50 per day)	7.50
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\$19.50

EMPLOYEES' STATEMENT OF FACTS: Claimant, D. J. Griffin, is employed by the Carrier and holds seniority date of 8-25-57 as PBX Operator and Messenger on the district here involved.

Relief Position No. 9303, Temple, Texas, was advertised as a temporary vacancy by Bulletin No. 18 on December 6, 1960. Mrs. Dorothy J. Griffin, who was working in Fort Worth at that time, although residing in Temple, made application for Position No. 9303 as advertised and was the successful applicant therefor. She was "assigned" thereto by letter issued by the Superintendent of Communications, Mr. J. L. Lee, his letter of December 12, 1960, file 27538; however, although relief was readily available, she was not permitted to protect Position No. 6775 at 3:30 P. M. on December 13, 1960. She continued

not have incurred the expenses she is alleged to have incurred for meals and lodging at Fort Worth on December 16.

The Petitioner's claim for expenses in behalf of Mrs. Griffin is also not supported by either the rules of the current Clerks' Agreement or the December 9, 1942 letter of understanding which prescribes the only conditions under which Mrs. Griffin would be entitled to expenses. Since Mrs. Griffin was (1) regularly assigned to Messenger Position No. 6775 at Fort Worth, (2) had obtained assignment to the temporary vacancy on Rest Day Relief No. 9303 at Temple in the exercise of her seniority and bidding rights under the agreement rules, (3) was obligated to remain on the Fort Worth assignment until released therefrom, and (4) was not held off her Temple assignment for more than 20 days, she had no agreement right to be reimbursed for the expenses she is alleged to have incurred at Fort Worth pending her release from that assignment. In other words, expenses are only payable under the December 9, 1942 letter of understanding commencing with the 21st day the successful applicant for a bulletined vacancy or new position is held off the position of his or her choice.

Moreover, the claimant Mrs. Griffin did not suffer any wage loss by reason of the handling complained of, but instead worked six (6) consecutive days which enabled her to earn one more day's pay than she would have earned had she protected Rest Day Relief Position No. 9303 commencing Tuesday, December 13, 1960.

In conclusion, the Carrier reasserts that the Employees' claim in the instant dispute is entirely without merit or support under the governing rules of the Agreement and it should be denied in its entirety for the reasons set forth herein.

OPINION OF BOARD: In this case the Claimant, Mrs. D. J. Griffin, held a regular assignment at Fort Worth, Texas. She was the senior applicant when, on December 7, 1960, she bid for a position at Temple, Texas. The bulletin expired on December 12, 1960 and she requested that she be placed on the job December 13, 1960. Carrier required her to protect the position at Fort Worth until the close of work on December 16, 1960. She began work on the Temple assignment December 17, 1960. This claim is presented for her expenses for December 13-16, 1960.

There is in evidence a Letter of Understanding, dated December 9, 1942, in regard to Article III, Section 8 (a) of the Agreement. It reads in part:

"Successful applicants for bulletined positions should be placed thereon as soon as qualified employees are available to relieve them".

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The employee alleges that Mrs. Griffin was not placed on her new assignment, "as soon as qualified employees were available to relieve her".

There is conflicting evidence in the record as to the availability of various employees to have relieved Mrs. Griffin on December 13, 1960 at the Fort Worth position.

In Award 5941, it was said, "Where no time is specified within which to take a particular action, the rule of reason will control and a reasonable time

will be allowed". The landmark case in this area seems to be Award 2174. In that case more than two months elapsed between the time the Claimant was assigned to a position and the time he was transferred thereto. The Board held that the transfer must be made within a reasonable time. They added that, "What is a reasonable time must be determined from the facts and circumstances of the particular case."

The Letter of Understanding said, "as soon as qualified employees are available". We are unable to conclude from the record that any employee was in fact available to relieve Mrs. Griffin on December 13, 1960.

We are of the opinion that the language used by the parties indicated that they knew they could not provide a specified number of days in the rule. They arrived at language which is subject to interpretation, in view of existing conditions in a particular case.

The claim before us involves a matter of four days. We do not believe that this delay was unreasonable.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 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 25th day of February 1965.