

Award No. 13688
Docket No. CL-14062

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Lloyd H. Bailer, Referee

PARTIES TO DISPUTE:

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

**JOINT TEXAS DIVISION of Chicago, Rock Island and Pacific
Railroad Company—Fort Worth and Denver Railway Company
(Burlington-Rock Island Railroad Company)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5331) that:

1. Carrier violated the Clerks' Agreement, particularly Rule 48 when they withheld from Katherine Parker's salary, Clerk, Galveston, Texas, three (3) days pay while off sick, namely; March 20th, 21st, and 22nd, 1962.

2. Carrier now be required to pay Katherine Parker at her regular rate of pay for the above mentioned dates, namely; March 20th, 21st, and 22nd, 1962.

EMPLOYEES' STATEMENT OF FACTS: Katherine Parker entered service of the Joint Texas Division of the CR&P-FW&D on March 13th, 1961 and established seniority under Rule 3 of Clerks' Agreement as of that date.

Furloughed May 16th, 1961.

Recalled as Expense Bill Clerk June 5th, 1961.

Furloughed September 1st, 1961.

Recalled as Expense Bill Clerk February 26th, 1962.

Furloughed April 6th, 1962.

Claimant was working at time she became ill and had been working steady subsequent to February 26th, 1962.

Her work was performed by other employees without cost to the carrier on March 20th, 21st, and 22nd, 1962.

Claimant had completed one (1) year of continuous service with the carrier at time of sickness.

Claim was presented and handled through the regular channels up to

Board to recognize that this claim is entirely lacking in merit and agreement support and summarily decline the claim.

(Exhibits not reproduced).

OPINION OF BOARD: As correctly stated by the Employees, the question here is: "Was Katherine Parker eligible for pay under Rule 48 for time lost account of illness?" The lost time involved was the three day period of March 20, 21 and 22, 1962. Agreement Rule 48 provides in pertinent part:

"Where the work of an employe is kept up by other employes without cost to the carrier, a clerk who has been in continuous service of the carrier one year and less than two years, will not have deduction made from his pay for time absent on account of a bona fide case of sickness until he has been absent six working days in the calendar year;"

Mrs. Parker was working for the Carrier at the time that illness caused her to lose three days. During these days her work was kept up by other employes without additional cost to the Carrier. Thus the question becomes whether Claimant had been in continuous service of the Carrier for at least one year as of the time she became absent due to illness.

Mrs. Parker's seniority date is March 13, 1961. She was furloughed due to reduction in force on May 16, 1961 and was recalled on June 5, 1961. On August 31, 1961 she was furloughed again and was reinstated on February 26, 1962. Thus as of the time she became absent due to illness she had worked in only eight of the thirteen months since her seniority date. (Claimant worked for the Carrier prior to 1961 but she resigned in 1959 and therefore was hired as new employe on March 13, 1961.)

In construing the identical language appearing in the sick pay clause of another agreement we held that "'continuous service' means the performance of labor for the benefit of the Carrier without break or interruption in the sense that the employe will perform, from day to day, the work as it is assigned to him." Award 5201. We adhere to this interpretation.

Clearly, Claimant Parker did not have one year of continuous service at the time of her absence due to illness, since the periods of her layoffs interrupted the performance of labor for the Carrier. It necessarily follows that she was not eligible for pay under Rule 48 for the time lost in March 1962 due to illness.

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 of the parties 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 June 1965.