

Award No. 13877
Docket No. CL-14317

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, 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 (GL-5432) that:

(a) The Bureau violated the Clerks' Agreement and Memorandum of Agreement between the parties signed at Chicago, Illinois, the 29th day of June, 1962, when it refused to permit Mr. A. E. Ivey to return to Bureau service on July 2, 1962.

(b) Mr. A. E. Ivey shall now be compensated at the rate of \$21.2824 per day for Monday, Tuesday and Wednesday, July 2, 3 and 4, 1962.

OPINION OF BOARD: Claimant was restored to Carrier's service and his former position on July 5, 1962. The gist of this claim is that he should have been returned to duty three days earlier, on July 2, 1962, when he reported ready and able to work.

Carrier maintains that the claim is not supported by applicable agreements and that Claimant should have given advance notice of his return to service and of the position he desired.

The record establishes that Carrier and the Organization agreed in writing on June 29, 1962, that Claimant "may return to Bureau service effective Monday, July 2, 1962, with all seniority rights unimpaired." No conditions were provided for in that Agreement and its reasonable and realistic meaning, in our opinion, is that Claimant would be restored to his former position on July 2, 1962. There would seem to be no requirement that he notify the Carrier in advance for the latter clearly was placed on notice by the Agreement of June 29, 1962, that Claimant would be permitted to return to work on a specific day, July 2, 1962, "with all seniority rights unimpaired"; any necessary personnel adjustments to accommodate that return should have been made by that date.

This should have been a routine reinstatement situation and the claim will be sustained.

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 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 of June 29, 1962, was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1965.