

## NATIONAL RAILROAD ADJUSTMENT BOARD

## THIRD DIVISION

Edward A. Lynch, Referee

## PARTIES TO DISPUTE:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYESCHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC  
RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL 5755) that:

1. Carrier violated the Clerks' Rules Agreement at Minneapolis, Minnesota when it failed to compensate Employee J. J. Tworoski at the time and one-half rate for 8 hours' work performed on Position No. 8074 on August 4, 1964.

2. Carrier shall now be required to compensate Employee Tworoski for four (4) hours at the straight time rate of pay of Position No. 8074 for August 4, 1964.

EMPLOYEES' STATEMENT OF FACTS: Employee J. J. Tworoski, who has a seniority date of August 15, 1949 in Seniority District No. 48 made application for and was awarded the position of Vacation Relief Perishable Freight Inspector at the Twin City Terminals as advertised in Carrier's Bulletin No. 17 dated May 27, 1964. Copy of Bulletin No. 17 and Bulletin No. 18 awarding the position to Claimant Tworoski are submitted as Employees' Exhibits A and B respectively.

The vacation relief position at the Twin City terminals was assigned to provide vacation relief as follows:

Pos. No.	Occupant	Vacation Period
17	P. R. Edmiston	June 13 to July 1, 1964
35	V. J. Williams	July 6 to July 24, 1964
18	A. W. Larson	July 28 to Aug. 1, 1964
15	D. M. Glass	Aug. 5 to Aug. 23, 1964
18	A. W. Larson	Aug. 25 to Aug. 29, 1964

Employee Tworoski worked Position No. 18 July 28 through August 3, 1964. August 2nd and 3rd being rest days of Position No. 18, he was compensated at the time and one-half rate for service performed on those two days.

Tworoski was called and used thereon and he was compensated for his services in the amount of 8 hours at the time and one-half rate of Position No. 8074 for each day, i.e., Sunday, August 2 and Monday, August 3, 1964.

Employee A. W. Larson, the regularly assigned occupant of Position No. 8074, who had been on vacation, was due to return to work on his regularly assigned Position No. 8074 beginning Tuesday, August 4, 1964, but he was absent on that day because of illness, therefore, claimant Tworoski was called to fill employee Larson's assignment on Position No. 8074 on that day for which claimant Tworoski was properly compensated for 8 hours at the straight time rate of pay of said position.

Attached hereto as Carrier's Exhibits are copies of the following letters:

Letter written by Mr. S. W. Amour, Assistant to Vice President, to Mr. H. V. Gilligan, General Chairman, under date of October 26, 1964 — Carrier's Exhibit B.

Letter written by Mr. Amour to Mr. Gilligan, under date of November 30, 1964 — Carrier's Exhibit C.

Letter written by Mr. Amour to Mr. Gilligan, under date of January 7, 1965 — Carrier's Exhibit D.

Letter written by Mr. Amour to Mr. Gilligan, under date of March 1, 1965 — Carrier's Exhibit E.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The claim before us in this Docket is clearly not the same claim that was handled on the property, and in line with numerous prior Awards of this Division, a dismissal Award is required.

**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 Claim must be dismissed.

#### AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1966.

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