



Award No. 14819

Docket No. CL-15702

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5767) that:

1. Carrier violated, and continues to violate, the Clerks' Agreement at Savanna, Illinois when it failed to permit employe L. E. Kehoe to exercise his seniority rights to Relief Position No. 17 held by a junior employe.

2. Carrier shall now be required to compensate employe L. E. Kehoe at the rate of \$19.67 per day for June 29, 1964 and all subsequent working days the violation continues.

EMPLOYEES' STATEMENT OF FACTS: Employe K. A. Eirhart, the regularly assigned occupant of Yard Clerk Position No. 2510 at Savanna, Illinois, which is assigned from 3:45 P.M. to 11:45 P.M., Thursday through Monday, with Tuesday and Wednesday rest days, requested and was granted a six-month leave of absence effective January 23, 1964, thus creating a temporary vacancy on Position No. 2510.

Employe L. E. Kehoe, an unassigned or furloughed employe, was recalled from the furloughed list in accordance with revised Rule 12(e) for the purpose of filling the temporary vacancy on Position No. 2510 and he commenced filling same on January 23, 1964.

As it was known the vacancy on Position No. 2510 was for more than 30 days and therefore required bulletining under the provisions of Rule 9(a), Bulletin No. 18 was issued by Superintendent A. C. Novak advertising Position No. 2510 for bid. Copy of Bulletin No. 18 is submitted as Employees' Exhibit A.

Employe Kehoe was the senior applicant and was awarded Position No. 2510 by Bulletin No. 22 dated February 13, 1964, copy of which is submitted as Employees' Exhibit B.

With reference to your letter of June 4, 1964 advising that you were being displaced from Position No. 2510 and your desire to exercise seniority to Relief Assignment No. 17.

Do not see where Rule 12(b) would entitle you to displace junior man J. R. Ferris assigned Relief Assignment No. 17 permanently. It is our understanding you would revert to furlough list, therefore, your request is denied.

/s/ A. C. Novak
Superintendent

cc: R. L. C., M. B. C., F. S. C."

Mr. Novak's aforementioned denial of claimant Kehoe's request resulted in the instant claim.

Attached hereto as Carrier's Exhibit E please find copy of letter written by Mr. S. W. Amour, Assistant to Vice President, to Mr. H. V. Gilligan, General Chairman, under date of November 30, 1964 and as Carrier's Exhibit F copy of letter written by Mr. Amour to Mr. Gilligan under date of December 18, 1964.

In addition, Carrier, by this reference thereto, wishes to make Carrier's submissions in Docket CL-15355 a part of the instant case.

(Exhibits not reproduced.)

OPINION OF BOARD: We are here involved with the same issue, the same parties and the same Claimant we had before us in Docket No. CL-15355, Award No. 14414.

Award 14414 sustained the claim for certain dates in March and April of 1964 and for all subsequent dates. The issue is, thus, res adjudicata and the claim here will be dismissed.

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 Employee involved in this dispute are respectively Carrier and Employee 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 is res adjudicata.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 6th day of October 1966.

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