



Award No. 17107
Docket No. CL-17525

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION
(SUPPLEMENTAL)

Jan Eric Cartwright, Referee

PARTIES TO DISPUTE:

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

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the
Brother (GL-6423) that:

- (1) The Carrier violated the Clerks' Agreement, particularly Rules 1, 14 and 25, when it used an employe covered by another craft agreement to fill a temporary vacancy of Mail Handler, Job No. 1058, at St. Joseph, Missouri on October 3, 1966.
- (2) The Carrier shall be required to compensate Mr. John Salcedo, Extra Clerk St. Joseph, Missouri, a day's pay at the rate of Mail Handler, Job No. 1058, (\$20.72), for October 3, 1966 account working a person from outside the craft, without established seniority nor acquiring seniority rights under the Agreement, and failed and refused to permit the Claimant to work the position.

EMPLOYES' STATEMENT OF FACTS: On Monday, October 3, 1966, there was a one day temporary vacancy on the position of Relief Clerk No. 2 scheduled to fill Job No. 1058 at St. Joseph, Missouri that was caused by the regular occupant thereof, Mr. W. B. Sexton, being set up to work as Ticket Clerk due to the absence of the Ticket Clerk.

Relief Clerk No. 2 assignment of five (5) days per week are as follows:

Job No. 1058, Mail Handler, Sunday-Monday, 10:00 A.M. to 1:00 P.M.
and 3:00 P.M. to 8:00 P.M.

Job No. 1361, Janitor-Mail Handler, Tuesday-Wednesday, 10:00 A.M.
to 3:00 P.M. and 5:00 P.M. to 8:00 P.M.

Job No. 1360, Mail Handler, Thursday, 12 Midnight to 8:00 A.M.

The following qualified employes with seniority rights to the work on Job No. 1058 were available for use on Monday, October 3, 1966:

G. R. Wilson, regular occupant of Mail Handler Job No. 1058, who was at home on his rest day.

Mr. Duncan holds a seniority date of September 28, 1960 on the St. Joseph Zone of the Ottumwa Division as a crossing flagman. His position as crossing flagman was abolished on March 23, 1966. (See Carrier's Exhibit No. 2) Since that time, Mr. Duncan has been used to protect crossing flagman, janitor and section laborer vacancies on a temporary basis as these vacancies occurred through vacations, sickness or other reasons.

On May 15, 1967, Mr. Duncan resumed work as a full-time section laborer following lay off. (See Carrier's Exhibit No. 3) On this date, he was rehired to fill an authorized section laborer position. Heretofore, he was used as an extra temporary section laborer. He was officially in a laid-off status from March 23, 1966 to May 15, 1967. He could have accepted employment elsewhere during this period of time. Instead, he chose to keep himself available to be used as a temporary extra section laborer, crossing flagman, clerk, janitor, or anything else the Carrier felt he might be qualified to do.

(Exhibits not reproduced.)

OPINION OF BOARD: The evidence presented in this claim contains conflicting contentions and is insufficient as to material facts. In view thereof the Board must dismiss the claim.

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

Claim must be dismissed for lack of proof.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May 1969.