



Award No. 17226

Docket No. CL-18151

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

THE TEXAS AND PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: 1. Claim of the System Committee of the Brotherhood (GL-6550) that: Carrier violated the National Vacation agreement at Big Spring, Texas, when it failed to fill Claudia McCreary's Assistant Cashier position during the time she was handling and relieving Cashier Evelyn Newsome's position, who was on vacation during the period of August 14, 1967, through August 25, 1967, or a total of ten days.

2. Claimant McCreary shall now be compensated an additional day's pay at the rate of her Assistant Cashier's position #980 for each work day August 14, 1967 through August 25, 1967, or a total of ten days.

EMPLOYES' STATEMENT OF FACTS: Claimant Claudia McCreary is regularly assigned to position #980, Assistant Cashier, Big Spring, Texas.

On August 14, 1967, Mrs. Evelyn Newsome, assigned to position #979, commenced her vacation, remaining vacation through August 25, 1967.

The Carrier instructed Mrs. McCreary to fill the position of the vacationing employe and in turn blanked position of claimant.

The Brotherhood filed claim on September 22, 1967, stating that rules 6 and 10 (b) of the National Mediation Vacation Agreement of December, 1941, as amended, have been violated. (Exhibit 1)

Mr. Schwarz declined this claim on September 29, 1967, by stating:

"This refers to your letter September 22, 1967, presenting claim for and on behalf of Mrs. Claudia McCreary for an additional day's pay at the rate of her assistant Cashier's position during the period August 14 through August 25, 1967, or a total of ten days.

There was no violation of the National Vacation Agreement as alleged by you.

Mrs. McCreary filled the highest rated position available during the time of this claim. She was required to perform duties performed by both Cashier and Assistant cashier from time to

OPINION OF BOARD: On August 14, 1967, Mrs. Evelyn Newsome, assigned to position of Cashier at Big Spring, Texas, began her vacation and was off ten days. The Claimant, Claudia McCreary, who was assigned as Assistant Cashier, was used to protect the vacation absence of Mrs. Newsome, during which time she was compensated at the higher rate of pay.

The claim alleges that the Carrier violated the National Vacation Agreement when it failed to fill Claimant McCreary's position of Assistant Cashier during the time she was used to relieve the Cashier, and asks that Claimant be compensated an additional day's pay at the rate of her Assistant Cashier's position for each work day, August 14, 1967, through August 25, 1967, or a total of ten days.

In the handling of the dispute on the property and in its submission to the Board the Petitioner has cited Articles 6 and 10(b) of the National Vacation Agreement.

The Petitioner alleges that Claimant performed the duties of the Cashier while the occupant of that position was on vacation and that she "continued at the same time to perform the urgent duties of her regular position." However, the record is devoid of any proof by the Petitioner that the Carrier's handling of the matter placed a burden on the Claimant or other employees, or that the vacationing employee was unduly burdened upon her return to work.

The Petitioner having failed to meet the burden of proof required of it, the claim will be denied.

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 was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of June 1969.