

**NATIONAL RAILROAD ADJUSTMENT BOARD****THIRD DIVISION**

Arthur W. Devine, Referee

**PARTIES TO DISPUTE:****BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP  
CLERKS, FREIGHT HANDLERS, EXPRESS AND  
STATION EMPLOYES****DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY****STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6642) that:**CLAIM NO. 1**

(A) The Carrier violated the effective Agreement, specifically Rules 25 and 39, when commencing with the work week of February 5, 1968, and in subsequent work weeks, Claimant Norman Johnson was assigned to less than five (5) days' work on a regularly assigned position.

(B) Claimant Johnson shall now be compensated commencing with the work week of February 5, 1968 and in each subsequent work week that he occupies the regular rest day relief assignment, the difference between the number of days for which he received compensation in each week and five (5) work days at the rate of the position to which regularly assigned on the one (1) day of each of said work weeks.

**CLAIM NO. 2**

(A) The Carrier violated the effective Agreement, specifically Rules 25 and 39, when commencing with the work week of February 12, 1968 and in subsequent work weeks, Claimant P. G. Menzel was assigned to less than five (5) days' work on a regularly assigned position.

(B) Claimant Menzel shall now be compensated commencing with the work week of February 12, 1968 and in each subsequent work week that he occupies the regular rest day relief assignment, the difference between the number of days for which he received compensation in each week and five (5) work days at the rate of the position to which regularly assigned on two (2) days of each of said work weeks.

The claims in this case were submitted and progressed in accordance with the provisions of the Time Limit on Claims rule. Copies of correspondence involved in the handling of the claims on this property are attached and marked as Carrier's Exhibit B.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claim No. 1 arose in connection with the filling of a seven-day-per-week 3:00 P.M. to 11:00 P.M. Clerk-Caller position at Two Harbors, Minnesota. During the period involved the position was filled by a regular five-day assignment in seniority district No. 6 with assigned rest days of Tuesday and Wednesday. On Tuesday the assignment was relieved by a regular relief assignment, and on Wednesday the assignment was relieved by Claimant, who, the Carrier states, was the senior available, qualified, extra or unassigned employee who had made himself available to perform extra and/or relief work.

Claim No. 2 involves the filling of seven-day-per-week Accounting-Billing Clerk position at Steelton, Minnesota. This position was filled by a regular five-day assignment in seniority district No. 2 with assigned rest days of Saturday and Sunday. On Saturday and Sunday the assignment was relieved by the Claimant, who, the Carrier states, was the senior available, qualified, extra or unassigned employee who had made himself available to perform extra and/or relief work.

The Carrier contends that all possible regular relief assignments with five days of work were established in each seniority district, and Claimants were called as the senior available, extra or unassigned employees because there were not sufficient "tag days" available to establish additional relief assignments.

The Petitioner contends that in Claim No. 1 the Carrier was required to create a regular five-day relief assignment to work the one day in question, filling out the assignment by creating four additional days of work each week, and in Claim No. 2 contends that the Carrier was required to create a regular five-day relief assignment to work the two days in question, filling out the assignment by creating three additional days of work each week. The Carrier contends that the Claimants were not assigned to perform relief work on the days involved, but that they were the senior available extra or unassigned employees in their respective seniority districts, and were used in accordance with Rule 25(j), which provides:

"(j) Work on Unassigned Days.

Where work is required by the Company to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employee who will otherwise not have forty (40) hours of work that week; in all other cases by the regular employee."

The one day of relief involved in Claim No. 1, Wednesday, and the two days involved in Claim No. 2, were not covered by regular relief assignments and, therefore, constituted "work which is not a part of any assignment" under Rule 25(j), and the Carrier acted strictly in accordance with the rule by having the work performed on such days by available extra or

unassigned employees. The five-day guarantee rule does not apply to extra or unassigned employees. (Awards 15616, 14092, 6968, 5558, 5463.)

**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.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1970.