

Award No. 18625
Docket No. CL-18629

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

KANSAS CITY TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6743) that:

(1) The carrier violated the Agreement between the parties when it arbitrarily required Employees C. F. Nichols and P. P. Bosley to suspend work on their regular positions for 6 hours and 2 hours respectively to relieve Employee I. B. Clark while on vacation.

(2) The Agreement was further violated when the Carrier failed to call Employees B. Mau, John Nusbaum and R. V. Melton for rest day work to fill the vacation assignment of I. B. Clark.

(3) That the Carrier now be required to compensate C. F. Nichols for 6 hours at the pro rata rate of his regular position and P. P. Bosley at the pro rata rate of his regular position for 2 hours on each of the dates of November 4, 5, 6, 7, 8, 11, 12, 13, 14, 18, 19, 20, 21, 22, 1968.

(4) That the Carrier now be required to compensate at time and one-half the rate of their regular position, the following employees on the following dates:

- (a) B. Mau — November 4, 5, 11, 12, 18 and 19, 1968.
- (b) John Nusbaum — November 6, 7, 13, 14, 20 and 21, 1968.
- (c) R. V. Melton — November 8, 15 and 22, 1968.

(5) Carrier be required to pay interest in the amount of 6% compounded annually on all monies due all claimants from the dates of violation.

EMPLOYEES' STATEMENT OF FACTS: On the date of November 4, 1969, Mr. I. B. Clark, regular assigned Counterman at the 27th Street Stores, Purchasing and Stores Department, began a 15 day vacation covering the dates of November 4 to 8, 11 to 15 and 18 to 22, 1968, all dates inclusive.

His assigned rest days were Saturday and Sunday. All other assignments in the department were also on a Monday thru Friday workweek. The Carrier made no advance arrangements by establishing a vacation relief position.

On the first day and continuing through the vacation period of Clark, Claimant Nichols, regularly assigned as Propane Plant operator was instructed and required to leave his regular assignment for six (6) hours each day and fill the assignment. Claimant Bosley, Foreman, was required to do the same for a period of two (2) hours each day. Their own positions were blanked during the period they filled the vacation assignment.

On January 1, 1969, claim was filed with the Purchasing Agent, Mr. G. J. Barber, by the Local Chairman, alleging violations of the Agreement basically in the fact that Employees were required to suspend work on their regular positions to absorb the overtime for rest day work which would have been necessary had the vacation assignment been filled in accord with the rules of the Agreement and further alleging violation of the seniority rights of certain employees for failure to call them for rest day work (Employees' Exhibit No. 1).

The claim was denied by the Purchasing Agent on February 10, 1969 (Employees' Exhibit No. 2) and appealed by the General Chairman under date of April 2, 1969 to the Manager of Personnel, Mr. U. B. Llewellyn, the highest officer of the Carrier to which the appeal could be carried. (Employees' Exhibit No. 3). Without benefit of conference the Manager of Personnel rendered his decision on April 16, 1969 denying the claim (Employees' Exhibit No. 4).

At the Organization's request conference was held on Wednesday, May 21, 1969, and the Manager of Personnel reaffirmed his previous decision.

On October 31, 1969 the matter was again discussed in final conference with no resolving of the dispute. This conference was acknowledged on November 4, 1969, by the General Chairman and copies of statements were furnished the Carrier as supporting evidence in the claim (Employees' Exhibit No. 5, pages 1 and 2).

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The Stores Department is open five days a week from 8:00 A. M. to 5:00 P. M. All employees are assigned the same hours with Saturday and Sunday relief days.

Regular Stores Department Counterman I. B. Clark took his vacation from November 4th to 22, 1968. During his absence his position was blanked and all counter work was performed by Stores Department employees C. F. Nichols and P. P. Bosley, who also regularly perform counter work.

OPINION OF BOARD: Regular Stores Department Counterman I. B. Clark took his vacation from November 4th to 22nd. The Organization contends that Claimants Nichols (regularly assigned as Propane Plant Operator) and Bosley (regularly assigned as Foreman-Stores Department) were required to suspend work on their regular assignments in order to relieve vacationing employee Clark; that the positions of Nichols and Bosley were blanked during this period of time; and that Claimants Mau, Nusbaum and Melton

were the proper employees who should have been called on a rest day basis to work the vacation assignment. Carrier denies liability on this claim and in support of such denial, maintains that Clark's position was blanked during his vacation period; that Claimants Nichols and Bosley had authority to, and did, absorb Clark's duties without suspending work on their (Claimant's) regular assignments; that Claimants Nichols and Bosley performed no work outside their regular assignments; that no contract rule prohibits the blanking of temporary vacancies; and that there was not violation of the vacation agreement or other rules cited by the Organization. Although there are several statements contained in the record to the effect that Claimants Nichols and Bosley suspended their own work in order to attend the duties of vacationing employe Clark, these statements are uncorroborated by probative evidence and must be classified as self serving. The record is void of evidence to the effect that Nichols and Bosley did not normally perform overlapping duties which also involved vacationing employe Clark's duties.

This Board finds from the record that Employee Clark's position was blanked during his vacation and that Employees Nichols and Bosley absorbed the duties of his (Clark's) position during his vacation period. This Board further finds that Employees Nichols and Bosley did not suspend their own work in order to absorb Clark's duties and that Claimants Nichols and Bosley performed no work outside the scope of their employment while absorbing the duties of Clark's position. Therefore, this 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1971.