



Award No. 19024

Docket No. CL-16859

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

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

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6161) that:

1. Carrier violated the Clerks' Rules Agreement when it removed work covered thereby by its assignment to an employee working as a Switchman and Trainman.

2. Carrier shall now be required to compensate employee B. C. Bell for eight (8) hours at the overtime rate of Check Clerk Position 6288 for November 9, 1965.

EMPLOYEES' STATEMENT OF FACTS: Employee W. C. Bell, who has a seniority date of May 11, 1928 in Seniority District No. 42, is the regularly assigned occupant of Check Clerk Position 6288 at Sioux City, Iowa. His assignment is from 5 A. M. to 2 P. M., Monday through Friday with Saturday and Sunday rest days.

Employee B. C. Bell, who has a seniority date of December 3, 1947 in Seniority District No. 42, is the regularly assigned occupant of Yard Clerk Position 6471 at Sioux City, Iowa, with hours and days of assignment of 2 P. M. to 11 P. M., Monday through Friday, and Saturday and Sunday rest days.

Tuesday, November 9, 1965 was employee W. C. Bell's Birthday Holiday; however it was necessary to fill his Check Clerk Position No. 6288 on that date.

In lieu of filling Position 6288 on that day with an employee with seniority under the Clerks' Agreement in accordance with the provisions of Rule 32 and Memorandum of Agreement No. 9, the Carrier used W. T. Jacobs, who had no seniority under the Clerks' Agreement and who was employed and performed service as an extra Trainman and Switchman during the period October 13 through November 9, 1965, to fill Position 6288 on that date.

The name of W. T. Jacobs does not appear on the July 1, 1965 seniority roster for District No. 42. His name does appear on the January 1, 1966 roster for that district with a seniority date of December 4, 1965. On the July 1, 1966

OPINION OF BOARD: Tuesday, November 9, 1965 was employee Wilfred C. Bell's Birthday-Holiday and it was necessary to work his Check Clerk Position No. 6288 on that date. Wilfred C. Bell was not used.

It is well settled by prior Awards of this Board that positions may be blanked on holidays, including Birthday-Holidays, but if work of the position is required to be performed on the Holiday the regular employee is entitled to be used. Award 18805.

The record is clear that the work of employee Wilfred C. Bell's position was performed on his Birthday-Holiday on Tuesday, November 9, 1965. Accordingly, we will sustain Item (1) of the Claim.

The Carrier raises the issue that employee Billy C. Bell, the regular occupant of Position No. 6471, is an improper claimant in this dispute. With this we must agree. Accordingly, we will deny Item (2) of 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

That the Carrier violated the Agreement to the extent indicated in the Opinion.

AWARD

Claim sustained in part and denied in part as set forth in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1972.