

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21614

Docket Number SG-21484

Irwin M. Lieberman, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Burlington Northern Inc.

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern:

On behalf of Signalman R. L. Shaftstall for 16 hours pay at time and one-half rate for November 23 & 24, 1974, and 24 hours pay at the straight time rate for November 20, 25 and 26, 1974, account being required to work another position. [General Chairman file: 75-01-87. Carrier file: SI-34(b) 2/6/75]

OPINION OF BOARD: This dispute involves the movement of Claimant from his regular position of Signalman to a vacation assignment of Signal Maintainer-at a different work location. The issues in disagreement are whether or not Carrier was restricted from assigning Claimant to the vacation relief position; secondly, whether Claimant was compensated properly in the relief assignment.

Petitioner argues that Carrier did not have the right under the schedule Agreement to assign Claimant to the vacation vacancy. In addition, it is urged that he did not receive the 36 hour notice required by Rule 8 for a change in starting time. Petitioner contends that Claimant should have been paid for his regular assignment for the days in question since he was held off his established position and it was not abolished. For each day claimed, Petitioner asks for pay in addition to that received by Claimant.

Carrier states that Claimant was verbally advised by the Supervisor of Signals on November 18, 1974 that he was assigned to the vacation vacancy and this notification was confirmed by wire on November 19th. Carrier points out that for the period involved Claimant was paid at the higher rate of Retarder Yard Maintainer rather than his regular rate of pay. Carrier's principal argument is that there is no restriction in any of the Schedule Rules which would preclude Carrier from making the temporary vacation assignment and that such assignment was specifically contemplated in both Rule 16 and the Vacation Agreement. Carrier asserts that Petitioner has failed to prove any rule violation on the part of Carrier.

The record indicates that **Claimant** was properly notified of the **temporary** assignment on **November** 18th; this fact was not rebutted or denied by Petitioner. Article 6 of the Vacation **Agreement** provides, in part:

"The carriers will provide vacation relief workers but the vacation system shall not be used as a device to make unnecessary jobs for other workers..."

In the interpretation of Article 6 of the Vacation **Agreement**, Referee Morse stated:

"(2) The term 'vacation relief workers' is not used in a technical **sense....The** term also includes those regular employees who may be called upon to move from their job to the **vacationer's** job for that period of time during which the employee is on vacation."

Article 10 of the Vacation Agreement together with Rule 16 of the Schedule Agreement provide the mechanics of payment for **employees** given vacation relief assignments.

There have been a number of Awards dealing with the issues in this dispute. In Award **11859** this Board said that rest days attach to positions filled (in a dispute involving a relief assignment). In Award **14324** which dealt with a very similar factual circumstance, the **Board** held:

"From the facts of record; **our** study of the Vacation Agreement and Interpretations relative thereto; and Awards cited by the parties, we find: (1) Claimant was properly assigned to the vacation relief position; (2) while on the relief position Claimant assumed all the conditions **of** that higher rated position, including the hours, assigned, rest days, and rate of pay; and, (3) during the period of the vacation relief assignment, **Claimant** had no contractual right to work on **his regular** assignment although he continued vested with ownership thereof."

In this case, similar to ~~that~~ in Award 14324, Claimant ~~assumed~~ the rate of pay, rest days and work location of the ~~employee~~ he relieved. Under the provisions of the Vacation Agreement, there appears to be no basis for the Claim; Claimant was **properly** compensated for the relief assignment.

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: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1977.