

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21878
Docket Number CL-21344

Nicholas H. Zumas, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(**Express** and Station **Employees**
(
(The Pittsburgh and **Lake Erie**
(**Railroad Company**

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood,
CL-7910, that:

(a) The Carrier violated the **Rules** Agreement, effective September 1, 1946, particularly **Rules 28** and **8**, when it used a junior regularly assigned **employee** to work Job C in the Centralized Agency, Pittsburgh, Pennsylvania, on the dates of **May 9** and 10, 1974.

(b) The Carrier be required to **compensate** Clerk B. B. **Buerkle** for eight hours at the punitive rate of Job C in the Centralized Agency, Pittsburgh, Pennsylvania, for the dates of **May 9** and 10, 1974.

OPINION OF BOARD: Clerk Michalski was assigned to a position on the extra list that began on a Monday. The previous week he bid on an assignment and was **successful**. The **new assignment's** work week began on Saturday with rest days Thursday and Friday. Clerk Michalski worked on the extra **assignment** Monday through Friday and **commenced** his new **assignment** on Saturday.

The Organization contends that under a January 26, 1954 letter **agreement** Clerk **Michalski's** new position in regularly assigned status was effective Thursday, and that **Claimant** should have been called to work that Thursday and Friday.

The pertinent portion of the January 26, 1954 letter **agreement** reads:

"**Assignment** of the successful applicant will be made in sufficient **time** to **become effective** the next Thursday on which day the next succeeding bulletin will be posted, except, that during weeks in which a holiday falls on Tuesday, Wednesday or Thursday, assignment **will** be **made** and bulletin posted on Friday."
(Underscoring added.)

Carrier contends that it. was proper to place Clerk Michalski on the position to which he bid ~~on~~ the first day of the work week of that position, and that was on Saturday.

Both parties agree that the issue is **whether Clerk Michalski was** properly used as an **extra employe** to fill vacancies on Thursday and Friday, or whether he **was improperly** used 'as a **regularly assigned employe** thus depriving Claimant, a senior regularly **assigned** employe, of rest day service.

Carrier takes the position that Michalski, even though he had bid for "and been assigned to a regular position effective Thursday, **May 9**, the first of the two consecutive relief days of that position... **the** work week rule **does** not permit a work week to be started on the rest days of an **assignment**, therefore, Clerk Michalski could not be **actually** assigned to the regular position until Saturday, **May 11.**" That being the case, Carrier argues, "Clerk Michalski retained his status as an extra **employe** whose work week began on **Monday, May 6**, and having worked only three days in that work week, **[and]** it was incumbent on the Carrier to call Clerk **Michalski from** the extra list to fill the vacancies in question on May 9 and 10 at straight time rate of pay."

It is clear from this record that Clerk **Michalski's** status changed **from** an extra **employe** to a regularly assigned **employe** on Thursday, May 9. As of that **time** he was junior to Claimant, and Claimant was entitled to the work.

To hold **otherwise** would **completely** disregard the provisions of the January **26, 1954** letter **agreement**. By so holding, the Board is not **making any judgement** on the merits, if any, that Clerk **Michalski** might have had if he had not been allowed to work.

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**;

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That this Division of the ~~Adjustment~~ Board has jurisdiction over the dispute involved herein; and

The Agreement was violated.

A W A R D

~~Claim~~sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1978.