

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22252
Docket Number CL-21928

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employees**
(Chicago, Milwaukee, St. Paul **and** Pacific
(Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
GL-8278, that:

1. Carrier violated the provisions of the Clerks' **Rules**
Agreement at Beloit, Wisconsin, on March 28, 1975, when it failed to
call employee H. E. Bloedel to perform the work of his position on a
holiday.

2. Carrier shall now be required to compensate employee
H. E. Bloedel for five hours and twenty minutes (**5'20"**) at the rate
of time and one-half of his position for March 28, 1975.

OPINION OF BOARD: This claim is concerned with certain work which
was performed on a holiday when the Claimant did
not work. The Claimant insists that the work in question would have
been performed by him, had it not been for the holiday; but in this
case it was performed by Operators.

The Claimant has cited **Rule 32 (Overtime)** and Decision No. 2
of the **40-Hour** Week Committee, and has contended that, as the regularly
assigned employee, he had preferential right to perform the holiday
overtime work of his position.

Our review of the record clearly demonstrates that the
dispute is factual in nature, and it is apparent that if the **work**
in question was "slip-billing" (as contended by Carrier), then the
claim should be denied because there is no showing that this **work**
is exclusive to the Claimant. However, on the other hand, it is
equally apparent that if the work is "revenue billing," there is a
showing of exclusivity and the claim should be sustained.

"Slip-billing" is a recording of destination and **route** information, whereas "revenue billing" includes rates, computations, etc., which are essential to a payment to the Carrier. The Claimant has presented a document which contains information concerning rates, computations and extensions. The correspondence which accompanied the document refers to it as a (slip-bill), but the Organization dismisses that categorization by asserting that the Claimant should have used quotation marks (rather **than** parentheses) surrounding the words slip-bill. **Further, there are assertions made that the** "billing machine" contains all capitals which, **in some** manner, assertedly further demonstrates the violation.

The Carrier denies that Operators performed any **revenue** billing on the holiday; but rather, it insists that the Operator confined his activity to preparation of a slip-bill authorizing the movement of a particular car on the system. Further, the Carrier states that the **revenue** bill was prepared on March 31, 1975 by the Claimant when he returned to work after the holiday weekend.

Our review of the bill indicates that different machines were used to record information on **it**. The Carrier freely concedes that **revenue** billing is exclusively performed by the Claimant, and it does not seek to alter that. But, as noted above, this is a dispute which **must** be determined concerning the factual events which transpired on the holiday. As such, the **employee** has the burden of proving its case. We find that the evidence is conflicting in this case, and it does not preponderate to the benefit of either party and, accordingly, the **employee** has failed to satisfy the burden of proof and we will dismiss the claim for such failure of proof.

It should be understood that we do not enter the controversy concerning Award 22024 and the dissent attached thereto, which was submitted to us in this dispute. Rather, as stated, **this** decision is determined solely on a factual basis.

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;

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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 claim be dismissed for failure of proof.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois; this **14th** day of December **1978**.