

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22271**
Docket Number CL-22317

Don Hamilton, Referee

(Brotherhood of Railway, Airline and
(**Steamship** Clerks. **Freight** Handlers.
(Express **and** Station **Employees** .
PARTIES TO DISPUTE: (
(The Baltimore and Ohio Chicago Terminal
(Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8472) that:

(1) Carrier violated the terms of the Agreement between the parties **when, on** the dates of March 26, 27, 28 and 29, 1974, it diverted **M. A. Gasper** from his regularly assigned Reclaim Statement Clerk Position C-119 (**8:00** AM to **4:30** PM), to Car Service Agent Position C-8 (8:00 AM to **4:30** PM), Barr Yard, Riverdale, Illinois, and failed to compensate him in accordance with Agreement rules, and

(2) Carrier shall compensate Claimant **M. A. Gasper** for the difference in the amount of compensation paid, and the amount of compensation due, because of the violation on the following basis:

For each day so used, eight (8) hours at pro rata rate of Position C-119, the regular **assignment** from which diverted.

OPINION OF BOARD: It is the position of the Organization that the Claimant was diverted from his regular position and required to fill a vacancy other than under emergency conditions and that the Carrier failed to properly compensate him in each instance. The Organization cites Rule 24 as controlling in this case.

The Carrier alleges that the issue involved comes within the provisions of Rule 22, otherwise known as the Sick Pay Rule. The Carrier also cites Rule 16, Preservation of Rates, as controlling.

After reviewing Special Board of Adjustment No. 192, Award No. 114, and Award 22186 of this Division, we are inclined to agree with the Organization. Therefore, the claim is sustained.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this **12th** day of January **1979**.

