

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 223%
Docket Number CL-22244

Louis Yagoda, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(~~Express~~ and Station ~~Employees~~
PARTIES TO DISPUTE: (Southeastern ~~Demurrage~~ and Storage ~~Bureau~~

STATEMENT OF CLAIM: Claim of the System ~~Committee~~ of the Brotherhood
(GL-8440) that:

"(a) The ~~Bureau~~ has violated the Rules Agreement, particularly Rule 34 when they required the claimant to suspend his regularly assigned duties in order to absorb overtime.

(b) Claimant W. H. Dickie, Jr. should be paid one day's pay for December 12, 1975 at the rate of one and one-half times the ~~regular~~ basic straight time rate of the claimant."

OPINION OF BOARD: Initially we are compelled to recognize that the Statement of Claim refers to a claim date of December 12, 1975. However, the rest of the Record leaves no doubt that the date in question is actually January 2, 1976.

On that date, Mr. R. O. McCollum was absent for compassionate leave. The position was not filled, and the duties were performed by the Claimant, who was on duty. A claim was filed in favor of Claimant contending he should not have been required to suspend his regular duties. The claim was one day at time and one-half. The Organization cites Rule 34 in ~~support~~ of their claim. It reads:

"RULE 34 - OVERTIME

"(a) In working overtime before or after assigned hours on assigned work days, employees regularly assigned to class of work for which overtime is necessary will be given preference. Where work is required by the ~~Bureau~~ to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employee who will otherwise not have forty (40) hours of work that week; in all other cases by the regular employee.

"(e) **Employees** will not be required to suspend work during regular hours to absorb overtime."

Under the facts of the case, it cannot be said the **Claimant** was required to suspend work to absorb overtime. The claim is **not** supported by Rule **34**, and therefore will be denied.

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:

AW. Paul
Executive Secretary

Dated at Chicago, **Illinois**, this 16th day of April 1979.

