

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22669
Docket Number CL-22484

Kay McMurray, 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-8537) that:

1) Carrier violated the Clerks' Rules Agreement at Galewood, Illinois on July 27, 1976 and continues to violate the agreement when it failed and/or refused to assign employee R. D. Ray, senior applicant, to Per Diem Clerk Position No. 02220.

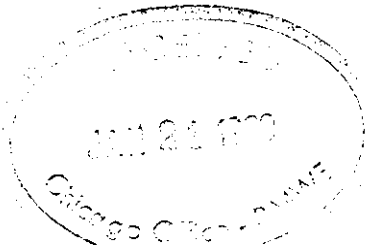
2) Carrier shall now be required to assign employee R. D. Ray to Per Diem Clerk Position No. 02220.

3) Carrier shall further be required to compensate employee R. D. Ray an additional eight (8) hours at the pro rata rate of Per Diem Clerk Position No. 02220 for July 27, 28, 29, 30, August 2, 3, 4, 5, 1976 and for all subsequent workdays thereafter until the violation is corrected.

OPINION OF BOARD: Claimant bid on a temporary vacancy bulletined on July 6, 1976. On July 14, 1976, the Carrier issued a bulletin awarding the vacancy to an employee who was junior in seniority to the Claimant.

Management received a letter from Mr. Ray, dated August 3, 1976, requesting an investigation under Rule 22(f). That rule reads in pertinent part:

"An employee, irrespective of period employed, who considers himself unjustly treated* * * shall have the right of investigation and appeal* * * * * provided written request, which sets forth employee's complaint, is made to the immediate superior officer within fifteen (15) days from cause of complaint."



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Page 2

The request for an investigation was denied by the Carrier since the request **was not filed in a timely fashion according to the rule.**

The organization **concur**s in this decision but claims that **Mr. Ray wrote a similar letter on July 17, which was timely.** That letter was not **received** by the Carrier. As evidence, the organization submits a **handwritten** note which they **claim** is a copy of the letter. Absent **any** other information, such an exhibit constitutes **a self-serving document** and can hardly be accepted as credible evidence. The record does contain a letter, received by the Carrier, dated July 17, in which the **Claimant** requests information regarding the reasons his bid was not honored. However, there **is** no request for an investigation. **In** fact, it would appear that the request for a Rule 22(f) investigation **was** prompted by the Carrier's reply.

On the **basis** of the entire **record**, **this** Board finds that the **rule was not complied with in a timely fashion.**

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 **claim be** dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, **Illinois**, this 14th **day** of December 1979.