

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22684  
Docket Number CL-22838

Martin F. **Scheinman**, Referee

PARTIES TO DISPUTE: (Brotherhood of **Railway, Airline and**  
( Steamship Clerks, Freight Handlers,  
( Express and Station **Employees**  
(  
(**Elgin, Joliet and Eastern Railway Company**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(**GL-8788**) that:

1. The **Carrier** **violated** the effective Clerks' **Agreement** when it refused to permit Clerk A. E. Wrobel to exercise his displacement rights **over** a junior **employee** effective with **the** date he **was** displaced, thereby depriving him of the work to which he was entitled;

2. The Carrier shall now compensate Mr. Wrobel for eight (8) hours' pay at the **time** and one-half rate of Position GT-1160-R for Nwember 4, 1977.

OPINION OF BOARD: Claimant, A. E. Wrobel, was the regularly assigned **incumbent** of Position GT-522, a seven day position with assigned hours from **11:00 P.M. to 7:00 A.M.** and rest days of Sunday and Monday. Under date of Nwember 2, 1977, to be effective on November 4, 1977, Ms. Charlotte **Carlin**, an **employee** senior in service to **claimant**, exercised her **displacement** rights to Position GT-552. **Claimant** was thereby displaced from that position. **Claimant**, in **turn**, exercised displacement rights wer junior **employee** L. Lear, incumbent of Position GT-1160-R, also to be effective November 4, 1977. Position GT-1160-R is a relief **assignment with** the following work week:

Sunday	GT-552	<b>11:00 P.M. to 7:00 A.M.</b>
Monday	Rest Day	
Tuesday	Rest Day	
Wednesday	GT-550	7:00 <b>A.M.</b> to 3:00 P.M.
Thursday	GT-550	7:00 A.M. to 3:00 P.M.
Friday	GT-554	<b>3:00 P.M. to 11:00 P.M.</b>
Saturday	GT-554	3:00 P.M. to <b>11:00 P.M.</b>

Claimant was displaced on Friday, Nwember 4, 1977 and sought to make his displacement on **that** same date **in** order to avoid a loss of earnings.

The Carrier refused to honor Claimant's displacement on November 4, 1977, and instead, deferred it until the following day, November 5, 1977. Thus, Mr. Wrobel was not an incumbent of any position on November 4, 1977. He seeks a day's pay for not being allowed to displace cm November 4, 1977.

Carrier relies upon a 1959 case settlement for disposition of the matter. However, that settlement did not involve an identical fact situation.

The issue here is whether Claimant can exercise a **displacement** immediately upon actually being displaced. There is no evidence presented of such a prohibition. That being the case, Rule 42(a) is applicable to an **employee** moving from one assignment to another (Award 20 of the Public Board 31 between these parties). See also Award 22636. The claim will be 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

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 14th day of December 1979.