

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23286
Docket Number CL-23387

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight **Handlers**, Express and Station **Employees**
(**Detroit**, Toledo and **Ironton** Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(GL-8994) that:

(a) **The** Carrier violated the Rules Agreement, dated May 1, 1966, amended January 1, 1971, particularly Rules 3, 6, 11 and others, when on August 2, 1978, the position of Relief Yard and Inventory Clerk at Springfield, Ohio, was abolished but Carrier continued to work subject position **until re-** establishing subject position on September 7, 1978. This position improperly abolished as the duties still existed **and** necessary to be performed **as evi-** denced by use of furloughed employee on subject position.

(b) **The Carrier now** be required to compensate M. A. Adams at the rate of \$58.85 including **COLA** for each and every date **this** position was filled by the furloughed employee after August 1, 1978. This compensation to be in addition to **Ns** regular earnings.

OPINION OF BOARD: **The claim** alleges that various rules of the Agreement were violated by reason of **Carrier's** abolishment of **Claimant's** position of Relief Yard and Inventory Clerk at Springfield, Ohio, effective August 2, 1978.

The Carrier states that the position was abolished **in** accordance with Agreement rules due to the requirements of the service; that Claimant **Adams** assumed furlough status when he failed to exercise his seniority to positions that were available to him; that on August 15, 1978, he marked off and declared himself unavailable for short vacancies **and/or** temporary assignments; that **Claimant** received a notice on August 17, 1978 to **report** for a permanent vacancy, and that he was subsequently removed from service by the Carrier when he failed to respond within seven days of receipt of the notice, in accordance with Rule 11 of the Agreement.

The **issue** involved herein is the abolishment of the **Relief** Yard and **Inventory** position at Springfield, Ohio.

We have reviewed the record carefully and are forced to the conclusion that the **Organization** has not proved a violation of the Agreement. While many assertions have been made, it **is** well settled that assertions alone do not constitute proof. We have no alternative but **to** deny the claim for lack of proof of a violation.

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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:

A. W. Pauls
Executive Secretary

Dated at **Chicago**, Illinois, this **15th** day of May 1981.

