

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23355
Docket Number CL-22699

Dana E. Eischen, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
{ Freight **Handlers**, Express and Station **Employees**
{ Soo Line Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8716) that:

(1) Carrier **violated** the effective **Agreement, specifically** Rules 1, 2 and 6(a), when Carrier required and/or permitted the Assistant Accounting Supervisor, a Carrier Official, an employee not under the scope of the effective Agreement to perform the duties assigned to Claimant, each day of Claimant's vacation period; September 26 through September 30, and October 3 through October 7, 1977. Also, the National Vacation Agreement was violated, specifically Article 5 and 6, when the work of the vacationing employee **was performed** without **utilizing** a vacation relief employee.

(2) Claimant A. D. Ollila, incumbent of the position of Switching Accountant, Minneapolis, Minnesota, shall **now** be compensated at the rate of time and one-half for eight (8) hours for each day of his vacation period, September 26 through September 30, and October 3 through October 7, 1977, at the rate of his position, in addition to **compensation** he has received for these dates for this violation of the effective Agreement.

OPINION OF BOARD: The facts of record are not **in dispute and** establish a violation of the **Agreements. A non-unit supervisor performed Claimant's** work while Claimant was on vacation. **Carrier's** primary defense of **de minimus damage** is not persuasive and the **assertion** that Claimant acquiesced or waived the right to challenge the Agreement **violation** is wholly **unsupported** in fact. In sustaining the **claim we find that the damages** sought are **excessive and** we shall award eight (8) hours for **each claim date** at the straight time rate.

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 to the extent indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Paulson*
Executive Secretary

Dated at Chicago, Illinois, this 14th day of August 1981.

