

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23533**
Docket Number **CL-226**

Dana E. Eischen, Referee

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

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(**CL-8627**) that:

(1) Carrier violated the Clerk-Telegrapher Agreement when, on the dates of August 27, 29, September **16, 20** and **24, 1975**, it failed to call senior furloughed employee **J. P. Burkett** to perform extra work at **WS** Tower, Butler, Pennsylvania, and, instead, used a junior furloughed employee.

(2) **Carrier** shall, as a result, be required to compensate senior furloughed employee J. P. Burkett eight (8) hours' pay at pro rata rate for each of the five (5) dates listed above.

OPINION OF BOARD: This claim concerns itself with the use of **furloughed** clerical employees to augment bulletined extra lists when the extra lists were exhausted. The specific claim situation occurred when a **junior** furloughed clerical employee at Butler, Pennsylvania, was used to fill **vacancies at Butler**, Pennsylvania. A senior furloughed clerical employee located some sixty (60) miles distance at **Punxsutawney**, Pennsylvania, claims he should have been called.

Under the provisions of Rule 25 of the applicable rules agreement, Carrier has bulletined and maintains guaranteed extra boards at several locations on the involved seniority district. Butler, Pennsylvania and **Punxsutawney**, Pennsylvania are **two** of the locations where such extra boards exist.

Rule 25 - Extra Employees as **pertinent** in this dispute provides:

"(5) **Employees** assigned to extra board positions shall be utilized on the seniority district to which assigned to fill vacancies, perform extra work, or train on regular positions in accordance with this Agreement, when called. It is not the intent of the parties that carrier is restricted to calling extra board employees in seniority order or on a first-in, first-out basis.

(a) **Extra** employees shall be utilized as stated above at the headquarters point of the extra board and Rule **23** shall not have application when extra employees are so utilized,

"(b) Extra employees may be utilized away from their headquarters point ~~and~~ within a radius of thirty (30) miles from such headquarters point ~~end transportation from headquarters point to~~ work location and return shall be reimbursed or ~~furnished~~ in accordance with Rule 23.

(c) Extra employees may be utilized beyond a radius of thirty (30) miles from headquarters point and travel pay and allowances in accordance with Rule 23 will be ~~paid~~."

Also pertinent to this dispute is Rule 24 - Short Vacancies Not Requiring Bulletin. This Rule 24 sets forth the preferential order which is to be followed in the filling of short vacancies. In paragraph (a) (2) of Rule 24 we read:

"(2) Second--by an extra employee ~~available~~ at pro rata rate, as provided in Rule 25 ~~or~~, if no such extra employee is available, by a ~~furloughed~~ employee under the provisions of Article IV of the August 21, 1954 Agreement."

The reference therein to Article IV of the August 21, 1954 Agreement leads us to paragraph 3 of that Agreement which provides as follows:

"(3) Furloughed employees who have ~~indicated~~ their desire to participate in such extra and relief work will be called in seniority order for this service. Where extra lists are maintained under the rules of the applicable agreement such employees will be placed on the extra list in seniority order and used in accordance with the rules of the agreement."

From the record in this case it is apparent that on this property clerical employees who have become furloughed and who have indicated their desire to participate in extra and relief work as permitted by Article IV of the 1954 Agreement have been utilized to augment the bulletined extra list at the location where the employs became furloughed and they have been used in accordance with the principles outlined in Rules **24(a)** (2) and **25** (5) (a) (b) and (c).

Petitioner has offered no substantive proof that this type of arrangement is either not followed in fact or that such a practice violates the applicable Rules. Our reading of the language of the applicable Rules and ~~Agreement~~ convinces us that such an arrangement does not violate any provision of the Rules Agreement. ~~There-~~fore, we must deny this claim.

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:



Executive Secretary

Dated at Chicago, Illinois, this **26th** day of **February 1982**.