

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Missouri Pacific Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10248) that:

1. Carrier violated the Agreement between the parties dated March 1, 1973, as amended, as well as the Vacation Agreement of December 17, 1941, as amended, when it arbitrarily assigned vacation dates to clerical employes at Brownsville-Harlingen, Texas.

2. Carrier now be required to assign vacations in accordance with Agreements referred to in Item 1 and/or,

3. Carrier now be required to allow the following listed clerical employes compensation at their individual applicable rate of pay for the number of days indicated. This compensation is for pay for vacation period requested and arbitrarily denied by the Carrier.

<u>Claimant</u>	<u>Vacation days</u>
J. W. Chapa	15
R. S. Saldiver	15
P. A. Anderson	20
J. J. Aguilar	15
S. Dembski	15
J. DeLeon	20
B. Cano	15
S. Cavazos	15
M. E. Montalvo	25
R. Leal	15."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Organization contends that Carrier officials at Brownsville-Harlingen, Texas, arbitrarily and unilaterally established the vacation schedule for the Claimants employed at that location. It claims that Carrier officials refused to enter into discussion for a mutually acceptable vacation schedule for 1987 with the Local Chairman. The Organization claims that Carrier arbitrarily decided only one (1) employee could be on vacation at a time. In summary, the Organization argues that Carrier violated the cooperative spirit of the National Vacation Agreement by its failure to agree to allow more than one employee off at a time. For their violation, Carrier should be made to compensate the affected employees for the number of vacation days credited to them in 1987.

Carrier contends that the Organization would not cooperate with it in establishing a workable schedule that considered the needs of the service. The Organization insisted on two (2) people being off at a time on some occasions and once that demand was refused, it failed to continue the discussion. Carrier must first cover the required positions and then allow people off on vacation. The Organization would not agree to this and consequently filed the instant Claim.

This Board has reviewed the record of this case and is compelled to conclude that Carrier's position is the more reasonable. It appears that Carrier did attempt to accommodate the Organization to some degree, but based on the number of employees at the location, the jobs could not be covered if two (2) people were on extended vacation at the same time. The Organization did not present any facts to refute this position. It is the opinion of this Board that Carrier did the best it could, given the number of employees it had, to accommodate the Organization's desire for vacation schedules.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer, Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1989.