

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Claude F. Steele

PARTIES TO DISPUTE: (

(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

"I am appealing to your jurisdiction the following case, N&W System Board of Adjustments No. 218 - file 539 appeal docket No. 67, case No. 5360-E. I am enclosing copies of my file on this case.

This case involves Vacation for the year 1986. As the file will explain, I requested one week vacation November 12 through November 16, 1986. When the vacation schedule was posted I was assigned February 26 through March 2, 1986.

A junior employee was assigned a week vacation commencing November 11, 1986. Another junior employee was assigned a week vacation commencing November 13, 1986.

I strongly protest this violation of my seniority and hope my appeal to your board will correct this situation."

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 were given due notice of hearing thereon.

The Claimant began service with the Carrier in 1955 as a clerk. In 1967, he was promoted and assigned to a train dispatcher position. This Claim is based upon the assertion the Claimant was forced to take a vacation he did not request, and an employee junior to him was assigned the vacation period he requested.

The Carrier raises procedural, as well as substantive, arguments in denying this Claim. It insists the Claimant has failed to cite Agreement rules in support of his position. Significantly, the Carrier stresses there exists not one shred of probative evidence a violation of any rule has occurred. This Board is inclined to agree with the Carrier's assertions.

We note the record does not indicate which rule the Claimant relies upon to support his charge of an Agreement violation. The record does clearly establish the Organization cooperated with the Carrier in the assigning of vacations which were assigned in order of choice. There is simply no evidentiary basis which suggests this process in any manner violated the parties' Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 

Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 25th day of September 1989.