

The Third Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-10233) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Fresno, California, on December 8, 1986, when it failed and/or refused to call H. L. McIntosh to fill the short vacancy on Crew Clerk Position No. 6021, and

(b) Claimant H. L. McIntosh shall now be compensated for eight (8) hours' pay at the pro rata rate of Crew Clerk Position No. 6021 for December 8, 1986, in addition to any other compensation Claimant may have received on claim date as a result of such violation."

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.

In this dispute, the Organization asserts that Carrier violated Rule 14, particularly those provisions defining a short vacancy and outlining the procedures for filling a short vacancy. Specifically, when the regularly assigned occupant of Crew Clerk Position No. 6021, at Fresno, California, was moved up to Head Crew Position No. 5002 (PAD) on December 8, 1986, a short vacancy existed, which should have been assigned to the Claimant. Claimant is the regular occupant of Relief Crew Clerk Position No. 9337, which is assigned to provide rest day relief to Positions 6021, 6020, and 6019. According to the Organization, since there were no qualified extra board or off-in-force

reduction employees available at the straight time rate and since Claimant was the senior regularly assigned employee with a written request on file indicating his desire to protect short vacancies on Crew Clerk Position No. 6021, he should have been called to protect this vacancy. It took exception to Carrier's response that no duties were performed by other Crew Clerks which were solely germane to Position No. 6021, arguing instead that said position calls passenger, freight and yard crews exclusively at Richmond on the Second Subdivision of the Valley Division. In other words, it asserted that if Crew Clerk Position No. 6021 had been effectively blanked, none of the trains would have been ordered and called east out of Richmond nor would have any of the trains arriving from the east at Richmond been inbound with the crew's arrival and tie up time updated.


Carrier argued that since there were no zoned extra board or off-in-force reduction employees available to protect the short vacancy, it elected to blank the position consistent with Rule 14-A and have the Crew Clerks on duty perform the pool work. It observed that two Crew Clerks each shift handle all the duties of crew calling and, as such, when Crew Clerk Position No. 6021 was blanked, the work thereof was distributed to the other Crew Clerks who perform the same duties. Moreover, it asserted that Claimant failed to indicate what work was actually performed and failed to establish that said work was exclusive to Crew Clerk Position No. 6021. It also took issue with the monetary Claim advanced by Claimant, since he worked his regular daylight assignment and suffered no monetary loss.

In considering this case, the record shows that Claimant had properly filed a blanket request for short vacancies on Crew Clerk Position No. 6021 and also that said position was officially blanked by Carrier on December 8, 1986. The record also shows that Claimant worked Crew Clerk Position No. 6020 on December 8, 1986, with assigned hours of 8:00 A.M. to 5:00 P.M. Furthermore, since there are persuasive indications that Claimant performed duties, such as handling the Richmond Crews on the Second Subdivision of the Valley Division, which appear to be performed by Crew Clerk Position No. 6021, we cannot conclude that all of the work performed on December 8, 1986, was pool work. In fact, Claimant noted in his letter of December 9, 1986, that he had to cover the work bulletined for Position No. 6021 as well as the duties of his own assignment, Position No. 6020. He did not detail, however, the comparative specifics or the duration of the work performed. Under the requirements of Rule 14, and given Claimant's filed request to fill short vacancies on this position, he would be eligible for such work, assuming availability, and also assuming that the position was not blanked. If the position were blanked, but the work or part of the work of the position were performed by other employees, a violation of Rule 14 would occur. In the instant case, Claimant performed part of the work. The quantity of time expended is indeterminate. We will award four (4) hours straight time compensation at the pro rata rate of Position No. 6021.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1990.