

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(  
(Soo Line Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood  
(GL-10257) that:

1. Carrier violated Article 12(b) of the National Vacation Agreement, Rule 56 and Supplement B of the effective Agreement dated January 1, 1982, when it denied Ms. C. Vados-Kolby her request to occupy the vacation vacancy of Car Shop Clerk, Shoreham Yard, Mpls., MN from August 16, 1984 through August 24, 1984 and utilized a junior furloughed employe to fill the vacation vacancy.

2. Claimant C. Vados-Kolby shall now be compensated the pro rata rate for Car Shop Clerk position from August 16, 1984 through August 24, 1984, in addition to compensation received during the period."

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 Carrier breached Article 12(b) of the National Vacation Agreement when it assigned an employee junior to Claimant to fill a vacation vacancy on a Car Shop Clerk position at Shoreham Yard, Minneapolis, Minnesota, from August 16 to August 24, 1984. The issue in this case is what is the appropriate remedy for the Carrier's violation of the National Vacation Agreement.

In Third Division Award 22416, the Board sustained an identical Claim involving the same parties herein. The Board awarded the employee wrongfully barred from filling a vacation vacancy pro rata compensation for each hour that the employee was improperly deprived of working the position in addition to other wages the employee received during the Claim period. (There is some

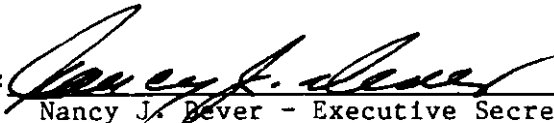
indication that the Board, in Award 22416, also allowed the prevailing Claimant an unspecified amount of overtime compensation.) The doctrine of stare decisis compels us to follow the precedent involving the same parties and an identical issue. We, therefore, sustain this Claim for eight hours at the straight time rate for each work date that the junior employee worked the vacation vacancy in lieu of Claimant. This Board emphasizes that the remedy accorded to Claimant in this case is restricted to this property.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:



Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of August 1990.