

CARRIER MEMBERS' CONCURRING OPINION
TO
AWARD 29268, DOCKET CL-29234
(Referee McAllister)

While it is clearly an anomaly for the Carrier Members to concur in a sustaining award of this Board, the reality is that the Organization's claim has been denied in all of its particulars by Award 29268.

First, the three claimants held regular clerical positions at Provigo and were observing their rest on each of the fourteen dates (eighteen separate claims) involved.

Second, Trucker positions are only at Global I and are lower rated, i.e., "intermodal" positions.

Third, there were no Trucker extra board employees available at Global I.

Fourth, on all but three instances the extra "Trucker" work was performed by a Trucker working either immediately before or after his regular Trucker assignment. The three other instances were handled by using a Trucker on his assigned rest. This is substantiated by the Organization itself in its submission to this Board where it states:

"All were filled but by regular employee on overtime."
(Submission page 11, emphasis added)

"Carrier called employees who were regularly assigned to Global One positions, at the punitive rate..."
(Submission page 3, emphasis added)


Fifth, the Understanding to Rule 9(g) lists the order of utilization as: a) the regular incumbent; and b) the senior available qualified employee who has requested consideration in

writing. Except for being senior on the district roster, Claimants satisfied none of the other requirements of the rule.

Sixth, the practice of using Global I employee for Global I vacancies had been in existence over four months without objection. Certainly if there were eighteen alleged violations in less than two months, it would be reasonable to expect that there would have been at least one alleged violation in the preceding four months. This is especially so when consideration is given to the fact that the matter was raised with the Organization and, according to their arguments, was rejected by them.


Finally, the Majority at page 3 of the Award notes the Organization's objection to the Carrier's introduction of Rule 40 in its submission to this Board. However, the Organization engaged in the same improper conduct at pages 6 and 11 of their submission. Voiced objections by this Board to new arguments should be applied to all such material found in the record.

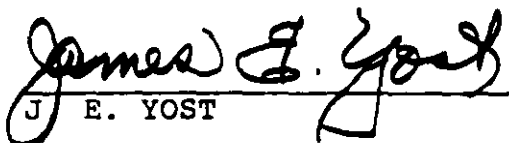
Obviously, the last sentence of the Finding has no application. Possibly it was to tie-up an imaginary loose end.


P. V. VARGA


M. W. FINGERHUT


R. L. HICKS


M. C. LESNIK


J. E. YOST