

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31790
Docket No. CL-31984
96-3-94-3-328**

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

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(St. Louis Southwestern Railway Company**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11053) that:

- 1. Carrier violated Rules 4, 6, 11 and 32 as well as Addendum 6 and 15 of the Agreement on December 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30 and 31, 1992, when it called employees junior to regular clerk E. Pinckard for overtime work thereby usurping his seniority and violating the Agreement.**
- 2. Carrier shall compensate E. Pinckard for eight (8) hours compensation at the time and one-half rate for December 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30 and 31, 1992."**

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 was on vacation between December 11, and 31, 1992. During that period overtime was required to be worked by the Carrier. The Carrier had this overtime work performed by employees junior to the Claimant, who were paid the overtime rate. The Claimant contends that because he had made a written request to perform overtime work while on vacation he should have been called before the Carrier called junior employees for the assignments.

The Board does not agree with the Claimant. He was on vacation on all dates involved in this claim that overtime was worked by a junior employee. This Board has consistently held that employees who are on vacation are unavailable to perform overtime work. See Third Division Award 29092 wherein we denied a claim, analogous to the one now before the Board, in which the Brotherhood of Railroad Signalmen argued that it was irrelevant that the involved Claimant was on vacation when the overtime opportunity occurred. In our findings in Award 29092 we again embraced the rationale of Third Division Award 23198 holding that when an employee goes on vacation he is not entitled to return to service until the first work day following his vacation period. Also in Third Division Award 29261 we held that employees on vacation are considered unavailable for work during their vacation periods.

We are not persuaded that the rationale expressed in these Awards is in any way in error. Accordingly, we find the claim to be without merit.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of December 1996.