

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31811
Docket No. CL-31895
96-3-94-3-239**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Chicago Central and Pacific Railroad Company**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11032) that:

Carrier violated the effective agreement when it failed to afford Mr. Kevin Dahm the opportunity to fill the position of Operator at East Cabin, Illinois, on July 1 and 2, 1993, in accordance with his status as senior qualified extra employee;

2. Carrier shall now compensate Claimant Dahm eight (8) hours' pay at the straight time rate of the above position (\$110.72) for each of dates July 1 and 2, 1993."

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.

This dispute is not one of rule interpretation; rather, it concerns only a question of timing. The principle involved is the latter part of the well known maxim, "A dollar short and a day late."

The Claimant was an unassigned employee with headquarters at Freeport, Illinois. By letter dated May 19, 1993 the Carrier changed the Claimant's headquarters point to Dubuque, Iowa, effective May 26, 1993. Such change, of course, affects the work locations for which an employee will be paid expenses. The Carrier acted in full accord with Rule 25, Expenses, which reads in part as follows:

"(C) The company shall designate a headquarters point for each regular position and each regularly assigned relief position and for employees not occupying such positions. Seven day's written notice will be given when designations are changed. The company may not modify such headquarters points more than once every 6 months."

The Claimant, in writing, at first declined to accept this change and then accepted, but in limited fashion. Finally, by letter July 29, 1993 the Claimant accepted placement to Dubuque.

The Carrier had not challenged Claimant's full or partial refusals, although it appears that it had the right to do so. Similarly, it is doubtful that the Claimant had the unilateral right to accept the change more than two months after it was directed. As a result, the Carrier consulted with the Local Chairman. According to the Carrier's undisputed contemporaneous note, the Local Chairman agreed at 4:00 P.M. on July 1 to the Claimant's tardy acceptance.

Work for which the Claimant might have been called (had the change already been effective) occurred commencing at 3:59 P.M. on July 1 and continuing on July 2. Another employee, already assigned to the affected headquarters, was called instead. There is no way the Organization may require that the Claimant be considered available retroactively. The claim does not concern the Claimant's assignment rights thereafter, and the Board has no need to comment thereon.

AWARD

Claim denied.

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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.