

Award No. 5287

Docket No. CL-5189

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Angus Munro, Referee.

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

A. Carrier violated rules of current Agreement effective September 1, 1927, governing the working conditions of employes when for a period extending from November 17, 1947 to December 15, 1947, they blanked a regularly established position of Switching and Reclaim Clerk (Position No. 33) in Office of Car Accountant, 63rd Street, Chicago, Illinois during the absence of the regular assignee, and did not bulletin the vacancy caused by the occupant, Mrs. Connors' absence commencing November 17, 1947 and terminating May 3, 1948; and

B. Carrier also violated rules of aforesaid current Agreement when, incidental to the absence of Mrs. Connors they unilaterally rearranged clerical forces in the Car Accountant's Office whereby during period April 19, 1948 to June 24, 1948 certain employes were required to suspend work during regular hours on their regular assigned positions to absorb overtime on Positions No. 33.

C. L. Putnam, regularly assigned to Position No. 31 be additionally compensated for eight hours on each date during period April 19, 1948 to May 3, 1948, that he was required to suspend work on his regular position (No. 31) to work on Position 33.

D. A. Bogren, regularly assigned to Position No. 19, be additionally compensated for all time he was required to suspend work on his regularly assigned position (No. 19) to work on Position No. 31 during Putnam's absence April 19 to May 3, 1948 and for all time he was required to suspend work on his regular position to work on Position No. 33 for period May 4 to May 28, 1948 and June 10 to June 24, 1948.

E. N. Schultz, regular assignee to Position No. 33, commencing December 16, 1947 be additionally compensated at the overtime rate attached to his position for all hours of labor performed thereon by Putnam during period April 19, 1948 to May 3, 1948 and by A. Bogren from May 4 to May 28, 1948 and June 10 to June 24, 1948.

EMPLOYEES' STATEMENT OF FACTS: This grievance primarily involves application of Rule 4 (Seniority Rights) Rule 6 (Promotion Basis), Rule 7 (Bulletins), Rule 11 (Temporary Appointments), Rule 12 (Short

be compensated for all hours of labor performed on that position by employes L. Putnam and A. Bogren. Employee N. Schultz was not on Position No. 33, December 16, 1947, as contended by the Employes, but was assigned as switching and reclaim clerk, Position No. 203, March 8, 1948, when that position was abolished, and he then exercised his seniority, displacing Mr. Putnam, trackage clerk, Position No. 33.

In summation Carrier asserts:

1. Employes have not complied with provisions of Circular No. 1 issued by the National Railroad Adjustment Board, and the claim should be dismissed.

2. No rule of the agreement between this Carrier and the Employes was violated when Position No. 33 was not filled immediately after Mrs. Conners reported ill.

3. The rules of the current agreement were complied with and all that is involved is the Carrier's proper use of its employes in the most practical and efficient manner.

4. There is no reason to set aside or reverse the decision made by the Carrier which is based upon the applicable rules and facts as presented herein.

(Exhibits not reproduced.)

OPINION OF BOARD: Various positions, individuals, and intervals of time are involved in the claim here before the Board. By reason thereof the claim itself is in several parts and it is therefore necessary and proper the facts as found be set out somewhat in detail.

On and for some time prior to November 17, 1947, one Conners was the regularly assigned occupant and holder of position 33, rate \$10.39. On or about the above mentioned time said Conners was given an indefinite leave of absence by reason of illness.

Carrier did not bulletin the vacancy so created nor did it abolish the said position. On or about December 16, 1947, one Schultz, holder of position 20, rate \$11.02, was displaced and he in turn under and by virtue of his seniority took over position 203, rate \$10.39, held by one Putnam, who in turn took over position 33.

This state of affairs was altered when on or about March 8, 1948, position 203 was abolished and employe Schultz displaced Putnam from position 33, and Putnam in turn displaced one Rock from position 31, rate \$10.39.

From on or about April 19-May 3, 1948, Putnam, at Carrier's direction, occupied himself with performing duties on position 33, and during such time one Bogren, regularly assigned holder of position 19, rate \$11.02, at Carrier's direction performed the duties of position 31 (Putnam). From on or about May 4 to May 28, 1948, and from on or about June 10 to June 24, 1948, said Bogren spent approximately three (3) hours and thirty (30) minutes per working day on the duties of position 33.

Part A of claim herein avers Carrier violated the Schedule when on November 17, 1947, it did not proceed as set out in Rule 7. We do not agree. The word "vacancies" as used in said rule contemplates that when same originates it is known the vacancy will be in excess of thirty (30) days. Here by reason of the illness of the occupant it could not be reasonably foreseen when the holder of the position involved would or would not return to a duty status. The exercise of seniority by employe Putnam within thirty (30) days subsequent to the creation of such vacancy and when it was apparent to all the holder would not return within such time removed the necessity of bulletining the position in accordance with Rule 13.

Petitioner next averred a violation of Rule 38 in that employe Putnam was required to suspend work during regular hours and absorb overtime. Petitioner asserts that subsequent to the holder of position 33 receiving an indefinite leave of absence and until December 16, 1947, no one was assigned to the duties thereof and that up to the time for which claim is made the holder was unable to perform the current duties and reduce the work which accumulated during the aforesaid period. To this Carrier replied employe Conners had been absent from duty but a few hours during October 1947 and further that Putnam only performed during said period duties of the same kind, class, and rate. We find merit in the contention of the Brotherhood. It is significant position 33 was not abolished. With reference to the amount of work performed by Conners prior to her absence, on the record herein we believe the Brotherhood. It is reasonable to say a job will require on an average from day to day the full time services of a fairly efficient employe. On such assumption we find there was a backlog of work at the start of the period for which claim is made. We do not think Carrier would desire the services of two employes to perform the current duties.

With reference to the work being of the same class, kind, and rate we cannot agree. For the purpose of forming and organizing a department of efficient and economical operation the employes may be styled clerks or whatever the basic and fundamental nature their work may consist of, this may likewise be true of the kind of work and the rate it is entitled to receive. It is difficult to conceive of Carrier detailing one to perform duties of which he has no knowledge of or familiarity with even in a general way. The Brotherhood has quite properly pointed out an employe of a class may perform general duties of an assignment other than his own in a reasonably satisfactory manner but that each assignment contains certain definite characteristics and peculiarities of its own. It therefore follows the regular assigned holder of position 33 was entitled to protect the duties and work duly assigned to same and that the assignment of one not entitled to protect said work constituted a violation of the Schedule as alleged. The above and foregoing likewise applies to the claim of employes Bogren and Schultz for reasons fully set out herein.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That claim as alleged except part A thereof be sustained.

AWARD

Claims sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummons
Acting Secretary

Dated at Chicago, Illinois, this 20th day of March, 1951.