

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Hubert Wyckoff, Referee

PARTIES TO DISPUTE:

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

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD
COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, that:

(1) The Carrier violated the Agreement when it failed to pay Stanley O. Cejka, A.A.R. Clerk at Cedar Rapids, Iowa, Car Department, for the full period of time he was off account sickness;

(2) The Carrier shall now be required to pay Stanley O. Cejka an additional 38 days—12 days in January, 1951, 19 days in February, 1951, and 7 days in March, 1951, at the proper rate of his assignment.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement between the parties to this dispute bearing an effective date of August 2, 1945.

Position referred to as A.A.R. clerk was carried on the payroll as M. C. B. clerk prior to 1952. However, sometime during the year 1951, title on the payroll was changed from M.C.B. clerk to A.A.R. clerk; therefore, such reference in this case regarding M.C.B. or A.A.R. clerk has reference to the same position.

Stanley O. Cejka, A.A.R. Clerk, Car Department, Cedar Rapids, Iowa, was away from his position account of sickness on working days from December 29, 1950 (the last day he worked) up to and including March 9, 1951.

Mr. Cejka's assigned work days per week as A.A.R. Clerk were Monday through Friday.

The work days Mr. Cejka was sick were as follows:

January	2	to	January	5, 1951	4 days
"	8	"	"	12, 1951	5 "
"	15	"	"	19, 1951	5 "
"	22	"	"	26, 1951	5 "
"	29	"	February	2, 1951	5 "
February	5	"	"	9, 1951	5 "
"	12	"	"	16, 1951	5 "
"	19	"	"	23, 1951	4 "
"	26	"	March	2, 1951	5 "
March	5	"	"	9, 1951	5 "

On basis of the above, we respectfully request declination of the claim.

It is hereby affirmed that all of the foregoing is, in substance, known to Petitioner and is hereby made a part of the question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The Agreement does not prescribe the duration or conditions of sick leave without deduction in pay; both it and prior Agreements simply confirm the practice which apparently varies from locality to locality on the System.

Claimant was off sick a total of 48 working days. His position was filled by a substitute 36 days; and he has been paid 12 days.

The controversy centers on whether sick pay is conditioned on absorption of the work by other employees or no additional cost to the Carrier.

The record shows various periods of time when Claimant was off account sickness and paid: 20 days in 1916; 17 days in 1937; and 4, 3 and 10½ days in 1947. In each instance, except for the 17 days in 1937, no substitute was employed and there was no additional expense to the Carrier.

The record also shows Claimant off account sickness January 19, 1948 to February 16, 1948 and not paid. During this period his position was filled by extra clerks.

Thus, there are two instances in which Claimant was off sick and substitutes worked his position. In 1937 he was paid and in 1948 he was not.

The Organization explains the 1948 non-payment by saying, "It now appears he should have filed claim for the time in 1948 when he was advised by the Car Foreman he would not be paid."

The 1937 payment was based upon an exchange of correspondence between the Carrier's Manager of Personnel and the General Chairman quoted in the Employees' Ex Parte Submission. From this correspondence we are unable to deduce anything more than a compromise settlement.

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 the Employees involved in this dispute are respectively carrier and employees 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

The Organization has not established the existence of the practice contended for in support of the claim. The Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 24th day of June, 1955.