

Award No. 9584
Docket No. CL-9016

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Howard A. Johnson, Referee

PARTIES TO DISPUTE:

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

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

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

1. That the Carrier violated the Clerks' Agreement when they declined claim for vacation allowance pay for Mrs. L. M. Kelley, deceased, February 1, 1956, earned in the year 1955.
2. That vacation pay due for the year 1955 be paid to her minor son, Ralph G. Kelley, under the provisions of Article 8, of the Vacation Agreement of December 17, 1941 amended August 21, 1954 by Article I, Section 5.

EMPLOYEES' STATEMENT OF FACTS: Mrs. L. M. Kelley was employed as Steno-Clerk, Master Mechanic's Office Galesburg, Illinois, with seniority date of June 12, 1950. Under the terms of the Vacation Agreement Mrs. Kelley qualified for two weeks vacation and worked the required number of days during 1955. Prior to taking her vacation during 1956 Mrs. Kelley worked up until February 1, 1956 when she passed away. Mrs. Kelley was a widow and had a minor son, Ralph G. Kelley, who would be entitled to the vacation allowance pay due his mother Mrs. L. M. Kelley. This claim appealed to Assistant Vice President Labor Relations, May 2, 1956 and declined June 18, 1956. Employees' Exhibit No. 2.

POSITION OF EMPLOYEES: There is an agreement in effect between the parties dated June 1, 1953 governing the hours of service and working conditions of employees and Carrier represented by the Brotherhood. Also there is an Agreement dated August 21, 1954, Article 1, Section 5 reading as follows:

Article 1. Vacations.

Section 5. Article 8 of the Vacation Agreement of December 17, 1941 is hereby amended by adding the following:

The Carrier affirmatively states that all data herein and herewith submitted has been previously submitted to the Employees.

* * * * *

OPINION OF BOARD: The pertinent facts are not in dispute. The question to be determined is whether Article I, Section 5, of the August 21, 1954 Agreement applies in the case of a deceased female employe as well as to deceased male employes.

The provisions of Article I, Section 5, show that it does not apply to deceased female employes. Accordingly, claim is denied.

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 Employee involved in this dispute are respectively carrier and employe 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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of October, 1960.