

Award No. 11307
Docket No. MW-11031

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Wesley Miller, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

KANSAS CITY TERMINAL RAILWAY COMPANY

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

(1) The Carrier violated the Agreement when it blanked the position of Station Maintainer on the 3:30 P.M. to 12:00 Midnight shift on March 20, 1957 because of the failure of regular incumbent Ray Bennett to report for duty.

(2) Station Maintainer D. J. McGrath, who was available, ready and willing to protect the position and shift referred to in Part (1) of this claim, be allowed eight hours' overtime pay account of not used to fill the one day vacancy referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: The claimant, Mr. D. J. McGrath, was regularly assigned to the position of Station Maintainer at Kansas City, Missouri. Mr. McGrath was regularly assigned to a 40-hour work week, consisting of five days, eight hours each, with rest days other than Saturday and Sunday or Sunday and Monday because of the Carrier's insistence that such assignment was a prerequisite to the filling of seven day positions, such as a station maintainer, which was necessary to its continuous operations.

On March 20, 1957, which was one of the claimant's two rest days, the regular Relief Station Maintainer, Mr. Ray Bennett, failed to report for duty on the 3:30 P.M. to 12:00 Midnight shift and the Carrier, instead of calling the claimant, who was available, ready and willing to protect the position and shift, blanked said position.

The Employees have contended and continued to contend that the Carrier may not properly blank a seven day position such as referred to herein.

The Agreement in effect between the two parties to this dispute dated May 24, 1941, together with supplements, amendments, and interpretations thereto are by reference made a part of this Statement of Facts.

POSITION OF EMPLOYES: The pertinent portion of Rule 24 reads as follows:

It is hereby affirmed that all of the foregoing is, in substance, known to the Organization's representatives.

OPINION OF BOARD: In this case, the regularly assigned relief employee did not report for duty. The position involved was a seven-day position; the regular incumbent worked same five days per week and was afforded two rest days.

It was on one of the assigned rest days that the incident referred to above occurred. The Record does not disclose why the occupant of the relief assignment did not come to work this particular day; however, there is no suggestion that his failure to report for duty was due to any fault on the part of the Carrier.

The regular incumbent of the position worked his usual forty hour week and was paid for same.

The Claim arises by virtue of the Carrier "blanking" the position this one day, the Employees contending that the regular incumbent, who is the Claimant herein, should have been called to fill the vacancy and paid for eight hours at the overtime rate.

The issue is whether the Carrier can rightfully "blank" a seven-day position under these particular circumstances.

We hold that it can.

The Agreement does not contain a "no-blanking" rule; the scope rule was not violated; seniority rights are not involved; and we are not confronted with the "repeated blanking" of a seven-day position (a possibility alluded to in Award 5589).

The present Claim must be 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 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

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 11th day of April 1963.