Award No. 12849
Docket No. CL-12907

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Robert J. Ables, Referee

PARTIES TO DISPUTE:

RAILROAD DIVISION, TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO

DONORA SOUTHERN RAILROAD COMPANY

STATEMENT OF CLAIM: Please pay Mr. Langstaff one (1) week salary at the Storekeeper's rate of pay due to violation of the clerks' contract in that the company did not call Mr. Langstaff to fill the short vacancy that existed on this position for the week of August 8, 9, 10, 11 and 12, 1960. Clerks' rules that were violated are Rule 1, Rule 26-a, Rule 21-c and notice dated June 9, 1960 for the recalling of furloughed employes.

EMPLOYES' STATEMENT OF FACTS: Mr. Langstaff is an employe of the company and is covered by the Clerks' Agreement and was furloughed on the above mentioned days.

On the days in question other employes in other departments did work and this meant that these employes had to get material out of the stores department to do their work plus making out reports for this material taken out of the stores department. This work should have been done by the Storekeeper. When this was not done the agreement was being violated.

This case was handled on the property of the company and is known as Case CL-15-60.

The Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective July 16, 1953 and revised October 1, 1957 with the Donora Southern Railroad Company covering the Clerical, Office, Station and Storehouse Employes, copies of which are on file with the Board and which are by reference hereto made a part of this Statement of Facts.

POSITION OF EMPLOYES: Mr. Langstaff is the employe that was entitled to do the work that must have been done by employes of other departments since there were employes working for the company in other departments and they had to get material from the store department to perform their work.

Likewise, the last sentence of Rule 26 (a), by requiring that senior available and qualified furloughed employes shall be given preference to perform any extra work, does not require the use of such employes until such extra work is required. Since in the instant case no extra clerical work was required to be performed, this rule has no bearing on this dispute.

For the foregoing reasons, as well as for the reasons assigned in Ex Parte Submission of Carrier in Local Claim No. CL-12-60 now pending before this Division, it is respectfully submitted that this claim must be denied.

OPINION OF BOARD: When the industry served by this Carrier drastically reduced operations, railroad operations were correspondingly reduced from 11 crews to 1 crew per day working 5 days per week. The regular incumbent of the storekeeper's position took a week's vacation shortly thereafter.

Relying on that part of Rule 21(b) which states that ". . . vacancies of less than ten (10) calendar days duration shall be considered short vacancies and may be filled without advertising," the Employes contend that the Claimant who was furloughed at the time, should have been called to fill the vacant storekeeper's position. Further, the Employes contend that the Claimant "was entitled to do the work that must have been done by employes of other departments since there were employes working for the company in other departments and they had to get material from the stores department to perform their work."

Without rebuttal by the Employes, the Carrier shows "that a storekeeper was never assigned on second or third turn, and that on all turns, regardless of whether or not there was a storekeeper on duty, it was the practice for shopmen to enter the storeroom to obtain materials for their own use. This practice existed prior to 1953 when the first Clerks' Agreement was negotiated." Carrier also relies on Articles 6 and 12 (b) of the National Vacation Agreement of December 17, 1941 to establish that a vacation does not in all cases constitute a vacancy required to be filled by another employe.

Since the claim fails to set forth the nature and extent of performance of the disputed work or when or by whom it was performed, the claim is lacking in the specificity required by Section 3, First (i) of the Railway Labor Act. Further, the Carrier has demonstrated that the practice on this property is for shopmen to obtain materials for their own use from the storeroom, whether or not the storekeeper is on duty. Accordingly, the claim must be denied.

Rules 21 (c) and 26 (a) cited by the Employes in support of their claim have no bearing in this case.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the 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 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 9th day of September 1964.