

Award No. 13911

Docket No. CL-14113

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5338) that:

(1) Carrier violated the Clerks' Rules Agreement at Savanna, Illinois when it assigned work occurring in Seniority District No. 48 to the regularly assigned employee in Seniority District No. 138.

(2) Carrier shall now be required to compensate employee F. Vannini for eight (8) hours at the overtime rate of Perishable Freight Inspector Position No. 103 for March 11, 1962.

EMPLOYEES' STATEMENT OF FACTS: Employee F. Vannini is the regularly assigned occupant of Perishable Freight Inspector Position No. 103 in Seniority District No. 48 at Savanna, Illinois. Position No. 103 is assigned from 7:00 A.M. to 4:00 P.M., Tuesday through Saturday, with Sunday and Monday rest days.

Employee L. Moore is the regularly assigned occupant of PFI Supervisor Position No. 30 in Seniority District No. 48 at Savanna, Illinois. Position No. 30 is assigned from 7:00 A.M. to 4:00 P.M., Sunday through Thursday, with Friday and Saturday rest days.

Employee B. Adams is the regularly assigned occupant of Relief Position No. 64 in Seniority District No. 48 at Savanna, Illinois. Position No. 64 relieves the following position:

Position No. 30	Friday and Saturday	7:00 A.M. to 4:00 P.M.
Position No. 103	Sunday	7:00 A.M. to 4:00 P.M.
Position No. 269	Monday and Tuesday	7:00 A.M. to 4:00 P.M.
Position No. 64 has rest days of Wednesday and Thursday.		

The record before us shows that Employee Piech had established seniority on District 48 and that no protest had been made prior to date of claim in accordance with Rule 6 (c) of the Agreement, which provides that seniority dates shown on rosters shall stand as correct, unless protested within 60 days from date of posting. Consequently, we must hold that Employee Piech was a furloughed employee with an established seniority date on District 48. The record further shows that Piech had seniority on District 144, in accordance with Rule 3 (d) of the Agreement. A review of Rule 3 (d) shows that an employee's rights under such circumstances are subject to Rule 12 of the Agreement, which provides, in pertinent part:

'(d) When forces are increased or vacancies occur, furloughed employees, when available, shall be recalled and returned to service in the order of their seniority and employees shall be required to return when so called. . . .'

In view of this, we hold that furloughed employee Piech was properly called.

It should be noted that the record does not show that Claimant herein made a request under Rule 9(g) of the Agreement that he be assigned to fill the vacancy in question.

Rule 32 (f) and Memorandum of Agreement No. 9, Section 4, of the Agreement of the parties, are not applicable to the issues arising from this Claim, for under the circumstances revealed by the record, overtime work was not necessary to fill the particular temporary vacancy.

In consideration of all of the matters set forth above, this claim should not be sustained.

* * * * *

AWARD

Claim denied." (Emphasis ours.)

The Carrier submits that Award 10518 has put to rest for all time the question here in dispute, and we further submit that Award 10518 fully and conclusively supports the Carrier's position that there is absolutely no basis for the instant claim and in view thereof the Carrier respectfully requests that the instant claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts in this case are similar to those in Award No. 14 of Special Board of Adjustment No. 452 and involve the same parties. Award No. 14 is controlling and requires a denial award herein.

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 21st day of October 1965.