

**NATIONAL RAILROAD ADJUSTMENT BOARD****THIRD DIVISION****(Supplemental)****Arthur W. Devine, Referee**

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**PARTIES TO DISPUTE:****BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES****CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY****STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-5751) that:

(1) The Carrier violated the rules of the Clerks' Agreement on July 13 and 14, 1964, when G. M. Matlock, Yard Clerk, Job No. 1102, East St. Louis, Illinois was required to perform work before his regular work period and was compensated at straight time rate, then was held off his regular position on the claim dates in violation of the Agreement effective January 1, 1961.

(2) Claimant Matlock be compensated the difference between straight time rate, \$21.61 per day plus subsequent wage adjustment of Chief Bill Clerk position, Job No. 1085 and overtime rate when he was notified under the provisions of Rules 14(d) and 44(a) to perform work before his regular work period on the claim dates.

(3) Claimant Matlock be compensated at straight time rate of his regular position, \$19.22 per day, plus subsequent wage adjustment, when he was required to suspend work during regular hours of his position in violation of Rule 43 on the claim dates.

**EMPLOYEES' STATEMENT OF FACTS:** This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, as representative of the employees who occupy positions coming within and under the craft or class of clerical, office, station and storehouse employees, hereinafter referred to as the Brotherhood and the Chicago, Burlington & Quincy Railroad, hereinafter referred to as the Carrier.

On Monday and Tuesday, July 13 and 14, 1964, a temporary vacancy existed on a regular relief assignment known as Relief Clerk No. 2, established to do the work necessary on assignments in seven-day service, among which is Chief Bill Clerk, Job No. 1085, East St. Louis, Illinois Yard Office. Chief Bill Clerk position No. 1085 is assigned a work week of 40 hours, consisting of five days of eight hours each, 8:00 A. M. to 4:00 P. M., Wednesday through Sunday, with Monday and Tuesday rest days worked by Relief Clerk No. 2.

**OPINION OF BOARD:** Claimant was regularly assigned to Yard Clerk Position No. 1102 with hours of 4:00 P. M. to 12:00 Midnight, and rest days of Friday and Saturday.

A vacancy occurred in Position No. 1085, July 13 and 14, with assigned hours of 8:00 A. M. to 4:00 P. M.

Carrier required Claimant, the junior employe at this point, to work the vacancy.

Claimant was paid the higher rate of Position No. 1085 at straight time.

Claim is for the difference between the pro rata rate allowed and overtime rate for the two days plus the straight time rate of Position No. 1102 for both days.

As there were no written applications of file from employes desiring to fill the vacancy and no qualified employes on the extra list, the Carrier properly required Claimant, the junior qualified employe at the point for whom it was a workday, to fill the vacancy pursuant to Rule 14(d) providing:

“(d) If there are no wirtten applications on file to fill a temporary vacancy, the senior qualified employe already on the extra list will be used in accordance with Rule 25. Otherwise, the Carrier is at liberty to hire a new employe to fill the vacancy, or, if necessary may invoke the provisions of Rule 51, and require the junior qualified employe at the point for whom it is a work day to perform the assignment.”

The eight hours worked from 8:00 A. M. to 4:00 P. M. July 13 made a total of 16 hours in a 24-hour period beginning at 4:00 P. M. Sunday, July 12, when Claimant went on duty.

Therefore, the 8 hours worked on July 13 should have been paid at the overtime rate in accordance with Rule 41 providing:

(a) Except as otherwise provided in these rules time in excess of eight (8) hours, exclusive of the meal period, within a twenty-four (24) hour period will be considered overtime and paid on the actual minute basis at the rate of time and one-half.\* \* \* ”

Claim allowed for the difference between pro rata and overtime rates for July 13, and denied in all other respects, as he was properly used both days as provided by the agreement and correctly compensated at the pro rata rate for July 14.

**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 the 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 violated in part.

**AWARD**

Claim sustained and denied as indicated in the Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST: S. H. Schulty**  
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of September, 1966.