

Award No. 15519
Docket No. CL-15778

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

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

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Western Lines)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5785) that:

(a) Carrier violated the rules of the current Clerks' Agreement, when it failed and refused to properly compensate Mr. G. H. Kunkel for his vacation during the period of June 17 through July 5, 1963; and,

(b) G. H. Kunkel shall now be compensated for the difference between \$21.6424 per day, Rate Clerk Position No. 4931, which he should have received and \$20.1624 per day, Stenographer Position No. 6051, which he did receive while on vacation June 17 through July 5, 1963.

EMPLOYEES' STATEMENT OF FACTS: Arrangements were made in advance with the force in the Freight Office, Temple, Texas for Claimant, occupant of Stenographer Position No. 6051, Rate \$20.1624 per day, to protect Cashier Position No. 3605, Rate \$21.3024 per day, for three weeks beginning May 6, 1963, while the regular occupant, Mr. Edgar Love, was on vacation and to then protect Rate Clerk Position No. 4931, Rate \$21.6424 per day for three weeks, beginning May 27, 1963 while the Regular Clerk, S. J. Stephens, took his three weeks' vacation, and upon the completion of the six weeks of temporary relief service, he, Mr. Kunkel, would take his three weeks' vacation scheduled to start June 17, 1963. This arrangement to use Claimant Kunkel was necessary, as the extra or unassigned relief workers were not qualified for the positions of Cashier and Rate Clerk.

Since it was known in advance that Claimant Kunkel would be absent from Stenographer Position No. 6051 for a period of over two months, May 6 to July 8, the position was advertised, as required by the rules, on April 19, 1963 by Superintendent's Bulletin No. 1646-55 (Employees' Exhibit H), and assigned to H. I. Lee on April 26, 1963 to be effective May 6, 1963 (Employees' Exhibit I), date Claimant vacated the position to take up the chore of providing vacation relief.

On December 22, 1964, following a conference between General Chairman Clark and Mr. O. M. Ramsey, the Carrier's highest officer of appeal, Mr. Ramsey affirmed his previous decision of December 11, 1963.

OPINION OF BOARD: The facts in this case are not disputed. Claimant was "a vacation relief worker", as designated in Article 6 and, as such, was compensated for working various positions in accord with Article 10(a) of the Vacation Agreement.

Claimant had worked as a vacation relief worker for six consecutive weeks immediately prior to taking his own vacation. For the first three weeks of such service as vacation relief worker, Claimant was compensated at the specified rate of \$21.3024 per day, and for the last three weeks of such service at the rate of \$21.6424 per day, pursuant to Article 10(a). Immediately thereafter, Claimant commenced his own vacation of three weeks' duration.

While on vacation, Claimant was compensated by Carrier at the rate of Claimant's position prior to becoming "a vacation relief worker", i.e., \$20.1624 per day. The former position had been duly and timely vacated by Claimant in order for him to become a vacation relief worker. The former position had been advertised by bulletin, and was awarded to another employee.

Claimant could, upon return from his vacation, exercise his seniority rights over any junior employee who had been awarded a position bulletined while Claimant served as a vacation relief worker and observed his own vacation, i.e., a period of nine weeks, from May 6 to July 5, 1963. However, this does not alter his status as a vacation relief worker.

Upon consideration of the entire record and the facts as above stated, it is clear that under Article 7(e) of the Vacation Agreement, Claimant was entitled to be paid "... on the basis of the average daily straight time compensation earned in the last pay period preceding the vacation...", i.e., \$21.6424 per day. (Cf. Awards 5390, 7772 and 14351) Therefore, the claim will be sustained.

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 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 between the parties was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of April 1967.

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