

Award No. 15809  
Docket No. CL-16405

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

Bill Heskett, Referee

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**PARTIES TO DISPUTE:**

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

**THE NEW YORK, NEW HAVEN AND HARTFORD  
RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood GL-6023 that:

(a) Carrier violated the terms of the current Agreement when it failed to call Mrs. E. Burns, Information Clerk, at Bridgeport, Conn., on one of her assigned relief days, Friday, April 23, 1965.

(b) Mrs. E. Burns shall now be paid 8 hours pay at the one and one-half rate of her position for Friday, April 23, 1965.

**EMPLOYEES' STATEMENT OF FACTS:** Mrs. E. Burns, seniority date, June 18, 1943 as a Group 1 employee is the regular assigned incumbent of position Information Clerk hours 8:00 A.M. to 4:00 P.M., Relief Days — Friday and Saturday. Friday, April 23, 1965, the assigned incumbent to Mrs. E. Burns' relief day booked off at 4:30 A.M. causing a vacancy to exist on one of Mrs. Burns' Relief days.

Under the existing Agreement governing the handling of Spare Work this vacancy should have been assigned to the claimant Mrs. E. Burns.

Carrier did not comply with this procedure, and elected to relieve Mr. C. Carr, a regular assigned Mail & Baggage Attendant from his position April 23, 1965 and assign him the Group 1 duties of an Information Clerk in lieu of the Claimant Burns.

Mr. Carr has a Group 2 seniority date of July 6, 1947 and no seniority as a Group 1 employee.

Claim was filed May 3, 1965 and appealed up to and including Carrier's highest officer designated to receive such appeals. Conference was held on September 28, 1965 the Carrier declining to allow claim. Correspondence in connection with the claim is attached hereto and identified as Employees' Exhibits A through F.

(Exhibits not reproduced.)

**CARRIER'S STATEMENT OF FACTS:** The claimant, Mrs. E. Burns, owns regular assignment as Information Clerk at Bridgeport, Connecticut, with a work week of Sunday through Thursday.

There is only this one seven day position, and there is no spare board of Information Clerks, as such. The rest days, Friday and Saturday are covered by Mr. R. J. Rosana, a spare Mail and Baggage Attendant.

On Friday, April 23, 1965, Mr. Rosana booked off for personal reasons, and another Mail and Baggage Attendant, Mr. C. Carr, who was qualified as Information Clerk, was taken from his assignment and used as Information Clerk at the straight time rate. Another spare Mail and Baggage Attendant was called to fill the vacancy in place of Mr. Carr.

Claim was instituted for eight hours at time and one-half in behalf of Mrs. Burns account not having been called on her rest day.

The claim was progressed up to and including the undersigned, the highest officer designated in the avenue of appeals.

Copies of General Chairman Farquharson's appeal dated August 16, 1965, and of decision by the undersigned dated October 8, 1965, are attached hereto as Carrier's Exhibits A and B.

Copy of Agreement, effective September 15, 1957, between this Company and the Brotherhood of Railway Clerks is on file with this Board and is, by reference, made a part of this submission.

(Exhibits not reproduced.)

**OPINION OF BOARD:** This claim involved rights arising under Memorandum of Agreement dated 11 December, 1957, which reads in part as follows:

**"SPARE WORK AND WORK ON HOLIDAYS**

It is agreed that spare work will be covered as follows:

\* \* \* \* \*

1. The Spare qualified available clerk who has not performed 40 hours of straight time work in his work week and who is available at straight time rates.
2. The employe who is regularly assigned to work the position five days a week, if available, or
3. The senior qualified available clerk."

The Claimant, Mrs. E. Burns, was a regularly assigned information Clerk at Bridgeport, Connecticut, and her relief days were Friday and Saturday. On Friday, 23 April, 1965, the assigned incumbent for Claimant's relief day booked off at 4:30 A. M., causing a vacancy to exist on said day. There was no extra clerk with less than 40 hours in his work week available and Carrier assigned an employe other than Claimant to the position. The Organization

complained that Carrier violated the terms of the Agreement by not calling the Claimant.

At the confrontation on the property Claimant admitted the following:

"I did not tell Mr. Gehring that I did not want to be called on my relief days but I did tell him **I did not want to work any overtime** and never wanted to work a full seven days." (Emphasis ours)

The Carrier acted reasonably in relying on Claimant's statement regarding overtime and not calling her. See, Award 14208 (Perelson), where this Board has previously passed upon similar contentions.

**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 Carrier did not violate the Agreement.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 20th day of September 1967.