



Award No. 16551

Docket No. CL-17085

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

WESTERN WEIGHING & INSPECTION BUREAU

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6320) that:

(1) The Bureau violated the National Vacation Agreement, Article 5, when it cancelled a portion of vacation of P. W. Chambers without giving her the ten days' notice provided therein.

(2) P. W. Chambers shall now be paid time and one-half times her basic rate of pay for January 4, 5, 6, 9 and 10, 1967 account having worked on these days, in addition to her regular vacation pay.

EMPLOYEES' STATEMENT OF FACTS: Claimant Mrs. P. W. Chambers is employed as Demurrage Auditor in the District Demurrage Manager's Office at Houston, Texas, with a seniority date of March 20, 1956. A copy of page 4 of the seniority roster of the seniority district in which claimant Chambers is employed is attached hereto and identified as Employees' Exhibit A. The daily rate of pay of claimant is \$25.9560. Claimant is on a Monday through Friday 8:00 A. M. to 4:45 P. M. assignment and has been on this position since October 1965.

Due to past practice vacation slips are not passed around to the employees by the Bureau Supervisors until the month of January or February. At this time the employee designates on the vacation slip their first and second choice of time to take their vacation. The Bureau and the Organization then agree on the vacation schedule. Prior to this time it has been the practice for the employee to request a portion or all of their vacation from the Bureau Supervisor if desired to be taken before the vacation schedule is printed and due to the small number of employees taking their vacation at this time there is usually no trouble of having a mutual agreement.

In the instant claim Claimant approached Chief Clerk P. C. Krebs on December 8, 1966 and handed him a request in writing for a position of her vacation to be taken January 4, 5, 6 and possibly January 9 and 10, 1967. As evidenced by the written request (Employees' Exhibit B) Mr. Krebs approved

be actually or constructively placed within 24 hours after arrival at destination, copy attached, (see Bureau's Exhibit 10).

On March 23, 1966, the Interstate Commerce Commission issued their Service Order No. 976, which, in effect, reduced the free time for unloading box cars and covered hopper cars at the Texas Gulf Ports from a period of 7 to 10 days to not over a combined total of 5 days, exclusive of Saturdays, Sundays and Holidays, copy attached (see Bureau's Exhibit 11).

Again on April 26, 1966, the Interstate Commerce Commission issued their Service Order No. 979, which raised the demurrage rates on detention to \$7.50 per day for the first 4 days of demurrage and \$15.00 per day thereafter. This order also provided for the counting of all debits immediately following expiration of the free time period. Copy of Order attached (Bureau's Exhibit 12).

All of these Interstate Commerce Commission Service Orders directly affect the work in the Demurrage office of the Bureau at Houston, Texas, since our employes involved therein are actively engaged in implementing the changes in demurrage free time as well as the changes in the demurrage charges as outlined in the Interstate Commerce Commission Service Orders.

As a direct result of these changes in the Interstate Commerce Commission Service Orders, our demurrage charges placed against the customers of railroads, both collected charges as well as uncollected charges, increased tremendously, as shown in the comparison table under Bureau's Exhibit 13.

Compounding the increased work load confronting our employes in our Houston Demurrage office, was the fact that an experienced regular employe became ill and went on sick leave December 1, 1966, which made a total of three (3) experienced employes being incapacitated and on sick leave under the provisions of either Rule 10 or Rule 49 of the Scheduled Rules Agreement.

(Exhibits not reproduced.)

OPINION OF BOARD: On December 8, 1966 Claimant presented a written request to her Supervisor that she would like to have January 4, 5, 6 and possibly January 9 and 10, 1967 as a portion of her vacation. Such request was in accord with existing practice when an employe desired to take vacation prior to issuance of a vacation schedule in accord with the Vacation Agreement. Some dispute exists as to whether or not her request was approved at that time. The record is clear, however, that Claimant was requested to remind the Supervisor sometime later on of her desire to take the vacation days indicated. She did so on December 28, 1966. At that time Claimant was informed that her request could not be granted due to an emergency situation caused by the work load and lack of available help for vacation relief. Claimant qualified for 15 days' vacation and when the vacation schedule was prepared she selected and was granted 5 days June 19 to 23, 1967 and 5 days December 11 to December 15, 1967. She made no selection to replace the 5 days that had been rejected and Carrier did not assign 5 additional days in replacement thereof.

In its submission to this Board the Bureau cites a number of factors which it is alleged created a back log of work and which was further aggravated by a shortage of help due to illness. All of the conditions cited by

Bureau as existing on December 28, 1966 are shown by the record to have been existing at the time Claimant's request was submitted on December 8, 1966. It is clear that the emergency alleged by the Bureau did not develop in the interim period.

Claimant, however, did not make a firm or bona fide request to take the dates of January 9 and 10 as vacation days. The only dates definitely specified were January 4, 5, and 6. Accordingly, we must find that Claimant's request for the dates of January 4, 5, and 6 were not properly deferred and the claim for those dates will be sustained. Since a firm request for the dates of January 9 and 10 was not made and no other dates were selected by Claimant in lieu thereof the claim for such dates will be denied.

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 was violated to the extent shown in the Opinion.

AWARD

Claim sustained for January 4, 5 and 6, 1967.

Claim denied for January 9 and 10, 1967.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of August 1968.