



Award Number 17843
Docket Number CL-18343

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

GULF, MOBILE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6629) that:

- (a) Carrier violated the National Vacation Agreement of December 17, 1941, as amended, and the Clerks' Agreement when it failed and refused to provide a vacation relief worker to relieve Mr. C. A. Vogel, a vacationing employee on July 22 through August 2, 1968, dates inclusive, and distributed more than the equivalent of twenty-five (25) percent of the work load of the vacationing employee among fellow employees by requiring Mr. R. W. Sherman, regularly assigned to the position of Outbound Rate Clerk to suspend work on that position for four hours on each of claim dates and to work for four hours on each such dates on the position of the vacationing Mr. Vogel.
- (b) The Carrier shall now be required, as reparation for violation of the Agreements, to allow Mr. R. W. Sherman ten (10) additional days pay at the pro rata rate of his regular position, the ten (10) days he was required to suspend work on his regular position for four hours and work for four hours on the position of the vacationing employee.

EMPLOYEE'S STATEMENT OF FACTS: Claimant R. W. Sherman is the incumbent of Outbound Rate Clerk position. His position, among others, is located in the office of the Carrier's Freight Agent at East St. Louis, Illinois, with assigned hours of 9:00 A.M. to 5:30 P.M., days of assignment, Monday through Friday.

Mr. C. A. Vogel is the incumbent of the Inbound Rate Clerk position in the office of the Carrier's Freight Agent. His position is also assigned to work Monday through Friday with assigned hours of 7:00 A.M. to 3:30 P.M.

Mr. Vogel was on vacation beginning July 22, 1968. He returned from his vacation and resumed his position on August 5, 1968.

During the time Mr. Vogel was on vacation, Claimant Sherman was required to devote four hours per day to the work of Mr. Vogel's assignment and four hours per day to the work of his own assignment. Work of both positions was deferred and accumulated to be performed by both the Claimant and Mr. Vogel after Mr. Vogel returned from vacation.

Claim was filed on Sherman's behalf with Agent Boushard on September 23, 1968, directing his attention to the National Vacation Agreement and the rules of the Schedule Agreement. (Employee's Exhibit "A")

Agent Boushard declined the claim on September 27, 1968, stating, "There is no merit to this claim and it is hereby declined." (Employee's Exhibit "B")

Claim was appealed to Terminal Superintendent Stephens on October 9, 1968, and was declined by him on October 22, 1968. (Employee's Exhibits "C" and "D")

Claim was subsequently appealed to the Carrier's Assistant Vice President, highest officer of the Carrier authorized to handle such matters, on November 7, 1968, and after several conferences in our efforts to dispose of this dispute on the property, we were on April 3, 1969, advised by Mr. C. F. Burch, Labor Relations Office of the Carrier, of his declination of the claim. (Employee's Exhibits "E" and "F")

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: At the time the instant claim arose, Carrier's force at its East St. Louis agency consisted of an agent, a warehouse foreman, a PBX operator, a messenger, and ten office clerks.

Mr. C. A. Vogel, rate clerk, was assigned to work Monday through Friday, with Saturday and Sunday rest days. After working Friday, July 19, 1968, Mr. Vogel observed two rest days, and then on Monday, July 22, began a vacation of two weeks. He was paid for ten days (July 22-26, July 29-August 2) at his regular rate of \$27.8083 per day while on vacation.

Mr. R. W. Sherman, also a rate clerk, likewise held a regular assignment working Monday through Friday, with Saturday and Sunday rest days. He was paid at his regular rate of \$27.9687 per day for the five work days July 22-26 and the next five work days July 29-August 2. In addition, he was paid for July 28, his birthday-holiday. Claimant Sherman here seeks pay for ten more days during this period, when Rate Clerk Vogel was absent on vacation.

OPINION OF BOARD: The claim herein arose in connection with the manner in which the work of inbound rate clerk position was performed while the occupant of that position, C. A. Vogel, was on vacation July 22 through August 2, 1968.

In the handling of the dispute on the property and in its submission to this Board the Petitioner alleged that Claimant was required to work four hours each day on his regular assignment and four hours each day on the regular assignment of inbound rate clerk Vogel, who was on vacation. In the handling on the property the allegation of the Petitioner as to Claimant being required to work four hours on each assignment was not specifically denied.

This Board has held in numerous instances that the Vacation Agreement does not require that every position be filled while the occupant is on vacation. See Awards 14952, 15992, 16187, among others. However, the Board has also held that where a Carrier is using the same employee on two different assignments at the same time, the Carrier is only permitted to distribute the work of a vacationing employee among his fellow employees with common seniority under a given rules agreement of a particular class or craft, pro-

vided such distribution is not in excess of 25% of the work load of a given vacationing employe unless a larger distribution of the work load is agreed upon by representatives of the employes. (Awards 7330, 14696.)

Based upon the record of this particular dispute as handled on the property, the Board concludes that more than 25% of the work load of vacationing employe Vogel was assigned to the Claimant, and that the Agreement was violated.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1970.