



Award Number 17911

Docket Number CL-18305

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

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

BOSTON AND MAINE CORPORATION

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6626) that:

1. Carrier violated the Clerks' Agreement, Rule 37, among others when during the period from April 1, 1968 through April 25, 1968 it failed to provide a relief worker and used junior employees to perform work on its Supervisor-Inward/Demurrage position, Auditor of Revenue Office, General Office, Boston, Mass., when the occupant was on vacation.
2. Carrier shall be required to compensate Giles C. Kelliher, Sr., Clerk, Auditor of Revenue Office, the difference between his daily rate of pay, \$27.24, and the above position, \$28.882 daily, or \$1.642 daily for the 19 working days in the period of April 1, 1968 to April 25, 1968 inclusive, total \$31.20.

EMPLOYES' STATEMENT OF FACTS: Claimant, Giles C. Kelliher, Sr., filed a claim under date of April 3, 1968, with Mr. F. A. Hyland, Auditor of Revenue, copy attached, as Exhibit "A" wherein he alleged that the use of junior employees on a higher rated position damaged him to the extent of \$1.642 daily until corrected.

Under date of May 15, 1968 the Auditor denied the claim as follows:
"Mr. Giles C. Kelliher, Sr.:

"This refers to your claim presented in your letter dated April 3, 1968 for the difference in pay between the rate of your clerical position and that of the position of Supervisor of Inward and Demurrage. This for the days Mr. Ryan was on vacation April 1 through 25, 1968.

"Under Article 10, Par. (b) of the Vacation Agreement, work of a vacationing employee may be distributed among two or more employees. The limitations stated therein were not exceeded.
"Your claim is denied".

/s/ **F. A. HYLAND**
Auditor of Revenue

cc: **"W. V. Goodrich**
Local Chairman

OPINION OF BOARD: A threshold issue raised by Carrier is the contention that the claim as submitted to the Board is not the same as that submitted on appeal to the Carrier's highest officer and that a substantial variance exists between the claim as handled on the property and as submitted to the Board.

We concur with the contention of Carrier. We have consistently held that where there is a substantial variance between the claim on the property and that presented to the Board, we cannot resolve the dispute. Awards 16525, 15384, 14258, 13235. Accordingly, we must dismiss the claim.

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 claim shall be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of May 1907.