

Award No. 18327
Docket No. CL-18494

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John B. Criswell, Referee

PARTIES TO DISPUTE:

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

THE TEXAS AND PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6695) that:

1. The Carrier violated the Agreement when, at Dallas, Texas, it allegedly blanked or suspended Group 1 position assigned to Clerk Hawkins while Mr. Hawkins was on vacation.

2. Claimant H. E. Eubank be compensated eight hours pro rata rate of pay of General Clerk position for June 3, 4, 5, 6, 7, 10, 11, 12, 13 and 14, 1968.

EMPLOYEES' STATEMENT OF FACTS: Commencing with June 3, 1968, and ending on June 14, 1968, Mr. M. S. Hawkins, regular assigned General Clerk, Dallas, Texas, was on vacation.

The duties of this position required the occupant to remain exclusively in the claim Department which is located in the "inside" of the Carrier's Freight Building, Dallas, Texas. The duties to be performed are of such nature that it is imperative that the position be "filled" each and every day, Monday through Friday.

Due to a shortage of qualified relief clerical employees, Mr. H. E. Eubank, claimant, was required to vacate his regular assignment and work the position of the vacationing employee. The duties of Mr. Eubank's position require him to remain exclusively on the "outside" of the Carrier's Freight Building, Dallas, Texas.

Mr. Eubank filed claim for dates listed in Statement of claim which was declined by Mr. A. F. Grimes, Terminal Manager. Employees' Exhibit 1.

The employees subsequently progressed the claim in the regular order of succession up to and including the highest official designated by the Railway in accordance with Rule 21 of the Agreement. Employees' Exhibits 2, 3, 4, 5, 6, 7, 8, 9.

You worked and were paid eight hours at the pro rata rate on each day for which you presented a claim and have not experienced a monetary loss in any way during this period.

The agreement has not been violated in any manner and therefore, for this reason and reasons stated above, your claims are being hereby respectfully declined.

5. General Chairman T. W. Taggart, Jr., appealed the claim to Carrier's Superintendent as follows on July 22, 1968:

"This will appeal to you the decision of Mr. A. F. Grimes, Terminal Manager, dated June 17, 1968, declining claim of Mr. H. E. Eubank, General Clerk, account Carrier violating the agreement.

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when, at Dallas, Texas, it allegedly blanked or suspended Group 1 position assigned to Clerk Hawkins while Mr. Hawkins was on vacation.

2. Claimants H. E. Eubank be compensated eight hours' pro rata rate of pay of General Clerk position for June 3, 4, 5, 6, 7, 10, 11, 12, 13 and 14, 1968.

I suggest the facts and position of parties be discussed in conference."

6. The dispute was progressed to Carrier's Director of Labor Relations who declined the claim as follows on March 27, 1969:

"Please refer to your letter of February 27, 1969, file 1055, and discussion at Fort Worth on March 14, 1969 claim of H. E. Eubank 11, 12, 13 and 14, 1968, when it is alleged he was required to suspend duties on his regular assignment at Dallas in order to perform the work of a vacationing employee.

As we understand the facts, General Clerk Hawkins and Claimant Eubank held positions of the same rate, same hours and the same location with duties of similar type and nature. When Clerk Hawkins went on vacation, claimant requested and was used to perform the duties normally performed by Clerk Hawkins. Claimant Eubank was properly paid for all services performed and we are unable to find any violation of the Clerks' Agreement.

In view of these facts, claim is without merit and is respectfully declined."

OPINION OF BOARD: In the Dallas, Texas, office of Carrier, Claimant Eubanks and Clerk Hawkins are assigned to positions the same in pay and hours. Their duties are similar, and during Clerk Hawkins' vacation, Clerk Eubank worked the Hawkins' position. Eubank's position was blanked. No qualified extra employees were available.

Carrier denied the claim on the ground that the Agreement between these parties does not contain support for the Organization's position and, further, that it acted properly under the National Vacation Agreement.

Two similar Awards between these parties are cited sustaining the Carrier, 14696 (Ives) and 17226 (Devine).

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of December, 1970.