

Award No. 18853
Docket No. CL-19081

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas L. Hayes, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6891) that:

1) Carrier violated the Clerks' Rules Agreement at Milwaukee, Wisconsin when it failed to properly assign overtime work required on Bill & Expense Clerk Position 87470 on Saturday, October 25 and Sunday, October 26, 1969.

2) Carrier shall compensate employee Wallace Henkel for eight (8) hours at the time and one-half rate of Bill & Expense Clerk Position 87470 for each day, Saturday and Sunday, October 25 and 26, 1969.

EMPLOYEES' STATEMENT OF FACTS: Employee W. J. Nowicki is the regularly assigned occupant of Bill and Expense Clerk Position No. 87470 in the Regional Data Office at Milwaukee, Wis. in District No. 151, and is assigned 7:25 A. M. to 3:55 P. M., Saturday through Wednesday, with Thursday and Friday rest days.

Employee W. J. Henkel, who has a seniority date of April 8, 1968, is the regularly assigned occupant of Bill & Expense Clerk Position No. 87210 in District No. 151 and is assigned from 1 P. M. to 9 P. M., Monday through Friday, with Saturday and Sunday rest days.

Employee Shirley Carlson, who has a seniority date of August 19, 1968, is the regularly assigned occupant of Bill & Expense Clerk Position No. 87220 in the Regional Data Office, District No. 151, and is assigned 9 A. M. to 5:30 P. M., Monday through Friday, with Saturday and Sunday rest days.

Employee Nowicki was absent on vacation during the period October 25 through 29th, 1969, and it was necessary to fill his Bill & Expense Position No. 87470 on overtime basis on Saturday and Sunday, October 25th and 26th, 1969.

In lieu of assigning the overtime work required on that position to senior employee Henkel, who was observing his rest days on those dates, that overtime

S. J. Carlson, who is regularly assigned to Bill & Expense Clerk Position 87220, and for whom Saturday, October 25 and Sunday, October 26, 1969 were assigned rest days.

Attached as Carrier's Exhibits are copies of the following letters:

CARRIER'S EXHIBIT

Letter written by Mr. L. W. Harrington,
Vice President - Labor Relations, to
Mr. H. C. Hopper, General Chairman,
under date of April 20, 1970..... "A"

Letter written by Mr. Harrington to
Mr. Hopper under date of May 4, 1970..... "B"

(Exhibits not reproduced.)

OPINION OF BOARD: An employee who had less seniority than Claimant in Carrier's service and who was regularly assigned to Bill and Expense Clerk Position 87220 was called by Carrier to work Bill and Expense Clerk Position 87470 on such junior employee's rest day. This day was also Claimant's rest day; and in spite of the fact that Claimant was then the assigned occupant of position of Revising Clerk, Grade B, having requested that position under the provisions of Rule 9(g), Petitioner contends that Rule 32(g) was thereby violated. Carrier has consistently and vigorously denied that Rule 32(g) was violated and in handling on the property Petitioner failed to identify the specific provision in Rule 32(g) that was allegedly violated or to adduce any evidence. The claim must therefore be dismissed.

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 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1971.

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