

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19329  
Docket Number TE-19455

Clement P. Cull, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employes  
( (Formerly Transportation-Communication Division, BRAC)

PARTIES TO DISPUTE: (

(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Penn Central Company,

T-C 5820, that:

CLAIM NO. 1

Car File: RR Dkt. 11562-NH  
Com. File: None

1. Carrier violated the provisions of the T-C Division, Brotherhood of Railway and Airline Clerks' Agreement of November 8, 1960 when it blanked the position of Telegrapher at 'NH' Office, hours of 11:30 p.m. to 7:30 a.m. on the following dates: February 18, 19, 25, 16, March 4 and 5, 1970.

2. Mr. Hildebrand shall now be compensated eight hours' pay for each day listed in the statement of claim and every subsequent day the violation occurs.

CLAIM NO. 2

Car. File: RR Dkt. 11563-NH  
Com. File: None

1. Carrier violated the provisions of the T-C Division, Brotherhood of Railway and Airline Clerks' Agreement of November 8, 1960 when it blanked the position of Telegrapher at 'NH' Office, hours of 3:30 p.m. to 11:30 p.m. on the following dates: February 16, 17, 23, 24, March 2 and 3, 1970.

2. Mr. Herzog shall now be compensated eight hours' pay for each day listed in the statement of claim and every subsequent day the violation occurs.

CLAIM NO. 3

Car. File: RR Dkt. 11564-NH  
Com. File: None

1. Carrier violated the provisions of the T-C Division of the Brotherhood of Railway and Airline Clerks' Agreement of November 8, 1960 when it blanked the position of Telegrapher at 'NH' Office, hours of 7:30 a.m. to 3:30 p.m. on the following dates: February 14, 15, 21, 22, 28, March 1 and 7, 1970.

2. Mr. Nugent shall now be compensated eight hours' pay for each day listed in the statement of claim and every subsequent day the violation occurs.

OPINION OF BOARD: This matter is identical to Award 18900, involving the same parties, which was denied for lack of proof.

The herein Claim must be denied for the same reason. There is no proof submitted by Petitioner to show that there was a vacancy at NH Office, New Haven, Conn. which Carrier was required to fill pursuant to the applicable agreements by using Claimants. As it is required that the Petitioner prove every element of its case the Claim must be denied.

Accordingly, the Claim 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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1972.