

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19544
Docket Number CL-19565

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: {
(Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
(The Western Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7008),
that:

1. The Carrier violated the rules of the Agreement extant between the parties when it used an employee junior to Debra Cocreham to fill a short vacancy on position of PBX Operator on July 6, 1970.

2. Debra Cocreham be compensated eight (8) hours pay at the pro-rata rate of the position of PBX Operator.

OPINION OF BOARD: On date involved in this dispute, the incumbent of the Assistant File Clerk position called in some 45 minutes after his assignment was scheduled to begin, advising Carrier he could not report for work account personal illness.

Carrier thereupon rearranged its regular force, i.e., required the PBX-Typist to assume the duties of the position of Assistant File Clerk, required the Steno-Clerk to move to the PBX-Typist position, and blanked (did not fill) the Steno-Clerk position.

This rearrangement of forces required no additional expense to Carrier and, therefore, the ill employee, regular incumbent of the position of Assistant File Clerk, was compensated for the day off account illness - his first day absent - in accordance with the provisions of Rule 52, Supplementary Sickness Allowance, of the parties' Agreement.

The then occupant of the Steno-Clerk position had been assigned by Carrier from her furloughed status to occupy the position during the absence of the regular occupant for vacation purposes. Claimant herein, while being the senior furloughed employee, did not possess the necessary fitness and ability to perform the duties of Steno-Clerk and, accordingly, the junior employee possessing the requisite fitness and ability, was assigned thereto.

Claimant alleges she, by virtue of the provisions of Rule 40 (c) and (d), was entitled to be called to fill the position of PBX-Typist but that Carrier, instead, used a junior furloughed employee to fill said position.

We are unable to agree, however, because of one fact: The junior furloughed employe had assumed the position of Vacation Relief Clerk on the Steno-Clerk position during the entire period of vacation of the incumbent thereof. When the junior furloughed employe assumed said Steno-Clerk position she, for all intents and purposes, became the regular incumbent of that position and a part of the regular work force. She was not, therefore, on date of claim, in a furloughed status. Carrier had the right to rearrange its regular forces to meet the situation, and the junior Steno-Clerk was one of the regular force. The claim is 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. Kellum
Executive Secretary

Dated at Chicago, Illinois, this 20th day of December 1972.