

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19830
Docket Number CL-20034

Burl E. Hays, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7202)
that:

1. The Carrier violated the National Vacation Agreement when it utilized the services of regular employees for vacation relief and required them to work two jobs, the vacationer's job and their own.

2. Claimants shall be compensated an additional day's pay, at the applicable pro rata rate of their regularly assigned positions as follows-

A. Wolf and W. Feehan June 7 to 11, 1971; P. Powers June 7 to 11, 1971 and July 6 to 9, 1971 and R. Altenburg June 14 to 18, 1971 and July 26 to 30, 1971.

OPINION OF BOARD: The Organization alleges that the Carrier violated the National Vacation Agreement of December 21, 1941 by utilizing the services of regular employees for vacation relief. There are four employees involved and although the circumstances in each case vary the issues are the same. Individual claims were filed but were declined collectively by the Manager General Accounting and were collectively appealed to the Carrier's Director of Personnel. Therefore, we will consider this as one claim.

More specifically Claimants allege violation of the Agreement when Carrier took them from their regularly assigned positions and moved them to vacationers' positions to do vacationers' work, and at the same time had them do their regular work, which required them to work overtime. They maintain Carrier should have furnished vacation relief employees. This is the basis of their claim and they rely in part on the official interpretation of the first sentence of Article 6 of the National Vacation Agreement by Referee Morse.

Article 6 reads as follows:

"The carriers will provide relief workers but the vacation system shall not be used as a device to make unnecessary jobs for other workers. Where a vacation relief worker is not needed in a given instance and if failure to provide a vacation relief worker does not burden those employees remaining on the job, or burden the employee after his return from vacation, the carrier shall not be required to provide such relief worker."

Referee Morse said of the first sentence:

"(1) The sentence obligates the carriers to provide relief workers to perform the work of an employee while he is on vacation if his work is of such a nature that it cannot remain undone without increasing the work burden either of those employees remaining on the job or of the employee when he returns from his vacation. It does not mean that in every instance when an employee goes on a vacation the carrier must assign someone to do the work which the employee would otherwise have done had he not gone on his vacation."

Carrier contends that the claim should be dismissed on the grounds that the claim presented to the Board is not the same claim handled on the property and therefore is improperly before the Board. Although there is some variance in the claims originally presented and the one now before the Board, we do not feel this has caused Carrier to be misled as to the issue being adjudicated here. Carrier's request that the claim be dismissed is denied.

The claims were declined by Carrier on the general grounds of past practice; that it is impractical to establish vacation relief assignments in the Comptroller's Office, and that it is permissible under the Vacation Agreement to fill the position of the vacationer with a clerk from another position.

We agree that in some instances it is permissible under the Agreement to fill the position of a vacationer with a clerk from another position. However, we do not feel it would be impractical to establish vacation relief assignments in this particular office. It is our opinion that vacation relief workers could have been successfully trained to perform the necessary work of these vacationing employees.

The question before the Board is whether or not Carrier violated the Vacation Agreement. Based on the provisions of Article 6 of the Agreement, and on the interpretation of Referee Morse of a portion of Article 6, and on other previous Awards, and on the holding in Special Board of Adjustment No. 167, Award No. 5, wherein it held:

"However light the burden, not more than the equivalent of 25 percent of the work load of a vacationing employee may be distributed among his fellow employees without the hiring of a relief worker."

we are of the opinion that the Carrier did violate the National Vacation Agreement of December 21, 1941.

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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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. H. Killen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of June 1973.