

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19971  
Docket Number CL-19892

C. Robert Roadley, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7208)  
that:

1. Carrier violated rules of the current Clerks' Agreement when it called Karen S. Andreason to work as 6th General Clerk on Sunday, June 20, 1971. Karen Andreason worked 5 days during this week and was released to the Extra Board on June 19, 1971 after having worked 40 hours this work week.

2. Carrier shall now be required to pay the Claimant, John G. Barron, 8-hours at time and one-half for this assignment account this violation.

OPINION OF BOARD: A vacation vacancy was created when the regular incumbent of the 6th General Relief Clerk position, Mr. Butterfield, took his vacation from June 1 through June 12, 1971. Miss Andreason, an extra employe, protected the vacancy. At the end of his vacation, Mr. Butterfield advised Carrier that he was laying off until he reported for work, which he did on June 23. Miss Andreason was instructed to work the position until the regular occupant returned. Therefore, for the period June 1 through June 22, 1971, Miss Andreason was properly assigned from her extra status to fulfill the duties and responsibilities of the position in the absence of the regular incumbent thereof.

On June 20, a rest day of the position she was occupying, the relief clerk laid off account illness; Miss Andreason was called to work the position on that day, clearly in accordance with the provisions of Rule 37(g), i.e.:

"\* \* \* \*

Short vacancies as defined in Rule 11 (b) will be filled in the following order:

First: By an available extra or unassigned employe with sufficient fitness and ability not having forty straight-time hours in his work week.

Second: If an employe is not available under Item first above, by senior qualified employe who has made written application, copy to Local Chairman, under the Note following Rule 3 (g).

"Third: If an employee is not available under Item first or second above, when vacancy occurs on a regular position and it is the regularly assigned employee's rest day, he will be used."

Carrier applied item Third in its assignment of Miss Andreason to protect the rest day work, inasmuch as, for all intents and purposes, she was the regular incumbent of the position.

Petitioner asserts that Item Fourth is applicable, reading:

"Fourth: In all other cases, when it is necessary to fill a position on an overtime basis, overtime will be distributed as far as possible to employees ordinarily performing class of work for which overtime is necessary."

"In all other cases" means if Items First, Second or Third cannot be applied in a given instance. In this case, we have determined that Item Third was applicable and, accordingly, we will deny the claim.

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 Carrier did not violate the Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Paulson  
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1973.