

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20047
Docket Number CL-20175

Frederick R. Blackwell, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Chicago and Illinois Midland Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. a-Carrier violated the agreement on March 15, 1972 when it required a junior unavailable employee to work a vacation relief assignment on Mechanic's Position.

b-Carrier shall be required to compensate Mr. M. L. Lane, Master Mechanic, for eight (8) hours at time and one-half rate of Mechanics position for March 15, 1972.

2. a-Carrier violated the Agreement when it required Mr. Stephens to suspend work as Mechanic Helper to perform vacation relief work on Mechanics position March 15, 1972.

b-Carrier shall be required to compensate Mr. Stephens for eight (8) hours pro rata rate of his regular Mechanic Helper position in addition to the amount received for March 15, 1972.

3. a-Carrier violated the Agreement on March 15, 1972 when it required Laborer Hughes to suspend work as a laborer and work as Mechanic Helper.

b-Carrier shall be required to compensate Mr. Hughes for eight (8) hours pro rata rate of Laborers position in addition to the amount received for March 15, 1972, and in addition, compensate the senior available employee, Mr. L. Northrup, Master Mechanic, for eight (8) hours at the time and one-half rate of Mechanic Helper's position for March 15, 1972.

OPINION OF BOARD: In their earlier stage these claims were submitted to two Divisions of the National Railroad Adjustment Board, the Fourth and the Third Divisions, and, in consequence, a problem of dual jurisdiction resulted. However, after consideration of Carrier's challenge to its jurisdiction, in Fourth Division Docket 2931, the Fourth Division dismissed the claims without prejudice. See Fourth Division Award Nos. 2867 and 2962 (Docket No. 2931). Accordingly, these claims are now properly and exclusively vested in the Third Division for adjudication.

As in Third Division Award No. 20046, this dispute arose from the manner in which Carrier filled a vacation relief assignment. In Award No. 20046, vacation vacancies were filled in two instances, on March 6 and 13, 1972. The claims here involve only one instance, i.e., the filling of the Master Mechanic's position on March 15, 1972. We therefore note that, for what appears to be a single violation, we have in this case four different Claimants who seek a total of sixteen (16) hours pro rata pay, and sixteen (16) hours overtime pay at three (3) different rates under the basic Agreement, a Special Agreement on Minimum Forces, and the National Vacation Agreement. We note further that all of the foregoing is advanced without any accompanying evidence, theory, or even argument, in support of the claims. In addition, the record here is in the same state of unreconciled conflict, incompleteness, and confusion as the record in Award No. 20046. Consequently, for the same reasons as those stated more fully in Third Division Award No. 20046, we shall dismiss these claims without prejudice.

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 Employee involved in this dispute are respectively Carrier and Employee 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

The claims are dismissed as per Opinion.

A W A R D

Claims dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1973.