

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20056  
Docket Number CL-20000

Irving T. Bergman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(  
(The New Orleans Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7186) that:

(a) Carrier violated the provisions of Article 6 and Article 10 (b) of the Vacation Agreement of December 17, 1941, as amended, at New Orleans Louisiana when it failed to provide proper relief for Mr. R. J. Gray, Chief Clerk to the Superintendent.

(b) Mr. Gray shall now be compensated at the time and one half rate of pay for each of the dates July 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, and 31, 1970, a total of fifteen (15) days.

OPINION OF BOARD: The herein Claim arises under the application of Article 6 and Article 10 (b) of the National Vacation Agreement of December 17, 1941, as amended. During the period July 13 - 31, 1972 inclusive, the Chief Clerk to the Superintendent at New Orleans, Louisiana, was on his scheduled vacation. His position was not filled with a vacation relief worker as that term is defined in the National Vacation Agreement. Approximately five (5) hours work per day of the Chief Clerk's position was performed during the vacation period by Mrs. G. H. Guion, a Clerk-Stenographer. The Clerk-Stenographer position is the only other position in the same office with the Chief Clerk.

Article 6 of the National Vacation Agreement provides:

"6. The Carriers will provide vacation 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."

Article 10 (b) of the National Vacation provides:

"(b) Where work of vacationing employees is distributed among two or more employees, such employees will be paid their own respective rates. However, not more than the equivalent of twenty-five per cent of the work load of a

"given vacationing employee can be distributed among fellow employees without the hiring of a relief worker unless a larger distribution of the work load is agreed to by the proper local union committee or official."

We have examined many Awards of this Division that hold that it is an Agreement violation to distribute more than twenty-five per cent of the work load to other employees while an employee is on vacation. See Awards 19233 (O'Brien), 18786 (Devine), 18433 (Ritter), 17843 (Devine), 16921 (McGovern) and the Awards cited therein.

In this dispute the record demonstrates that five-eighths (5/8ths) (or 62-1/2%) of the Chief Clerk's work was performed by the Clerk-Stenographer while the Chief Clerk was on vacation. This disposition of the work to one employee without using a vacation relief employee violated Article 10 (b) of the National Vacation Agreement. We will sustain part (a) of the Claim.

With respect to part (b) of the Claim, we note that compensation is claimed by the Chief Clerk who was on vacation. Our review of all of the Awards wherein a violation of Article 10 (b) was found indicates that the claims presented in these prior decisions were presented on behalf of the employee performing the work, not the employee who was on vacation. No authorities have been cited where claim was made and sustained on behalf of the employee who was on vacation. Accordingly, while holding that the Agreement was violated, we will not depart from our prior holdings and award compensation to the employee that was on vacation. Part (b) of the Claim will be dismissed.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 dispute involved herein; and

Claim (a) will be sustained. Claim (b) will be denied.

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Claim (a) sustained as indicated in the Opinion;

Claim (b) dismissed as indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: *A. W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1973.