

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20695
Docket Number CL-20634

Francis X. Quinn, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station Employees
PARTIES TO DISPUTE: (
(Chicago, Milwaukee, St. Paul and Pacific
(Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7487) that:

1. Carrier violated the Clerks' Rules and/or Agreement at St. Paul Minnesota on May 25, 1972 when it allowed R. H. Stewart to displace employe R. Bruch.

2. Carrier shall now be required to compensate employe Bruch for all wages lost, and reinstate him to his original position.

OPINION OF BOARD: First, we must deal with Carrier's procedural argument that the claim is not a proper claim within the meaning of Rule 36 (a) of the Parties' Agreement and, therefore, is improper under Section 3 First (i) of the Railway Labor Act. We find this argument to be without merit.

The next issue for determination centers around whether Trainmaster Stewart was "relieved" of his official position or was "dismissed" from Carrier's service. There is no proof in this record demonstrating that Trainmaster Stewart was dismissed. We hold that he was relieved from the position of Trainmaster and, as such, was entitled to exercise clerical seniority rights as provided in Rule 23 (e). The record also demonstrates that there were no positions available to Stewart in the district from which promoted. Accordingly, the rule permits in this situation the exercise of Stewart's seniority rights in his original seniority district. In normal circumstances, such displacement must be made within fifteen (15) days, but Stewart did not exercise his rights until forty-seven (47) days after having been relieved from the Trainmaster position. Carrier states that the reason for the delay was because Stewart was placed on sick leave of absence to have dental work performed. Sick leaves do not require the concurrence of the Organization, and the Organization has not offered proof that Stewart was not on sick leave prior to the date he physically displaced Claimant R. Bruch.

In view of the facts of record, we will deny the claim.

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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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 17th day of April 1975.