

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22243
Docket Number CL-21963

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
GL-8335, that:

"1. The Carrier violated the effective Clerks' Agreement when under date of June 26, 1975, to be effective on July 5, 1975, it abolished Position GT Vac. #1, a vacation relief assignment while there still existed in excess of twenty-five days of continuous vacation relief to be performed;

2. The Carrier shall now compensate Clerk N. V. Rhodes for eight (8) hours' pay at the pro-rata rate of the respective positions Position GT Vac. #1 would have relieved, which is in addition to any amount already paid by the Carrier, commencing with July 6, 1975 and for each and every day thereafter that Position GT Vac. #1 would have worked, up to and including August 10, 1975."

OPINION OF BOARD: Early in 1975, the Carrier and the Organization agreed to a procedure for handling vacations at the facility in question. A portion of that understanding provided that:

"Vacation relief positions will be established as temporary assignments whenever the position or positions to be relieved on any roster shall exceed twenty-five (25) days duration. Should any unforeseen break in the vacation assignments occur, the Carrier may abolish that assignment and re-establish following such break."

Early in April of 1975, pursuant to the cited agreement, the Carrier advertised position GT Vac. #1 to provide certain vacation relief, and that position was awarded to the Claimant as the senior bidder.

On June 26, 1975, the Carrier issued another bulletin which abolished the position in question, effective July 5, 1975, even though there were a total of 35 days of vacation which remained to be performed.

The Organization asserts that it made certain concessions when the local agreement was negotiated and that the Carrier may not accept those portions of the agreement and ignore the portions which it feels are disadvantageous.

The Carrier concedes the terms of the agreement which provided for selection of vacation relief and it concedes that Claimant was awarded the vacation relief assignment in question. It states however, that the position was abolished, effective July 5, 1975, because 13 out of 24 regular positions at the location were abolished due to business conditions, which resulted in abnormal displacements, or bumping, by affected employees and an extensive realignment of clerical forces, including furlough of forces.

Nevertheless, a right to rearrange forces to insure qualified personnel does not diminish the Carrier's obligations to comply with its January, 1975 agreement, and it appears that the Carrier did violate that understanding by its premature action of abolishing the position in question.

In reaching this determination, we have not disregarded the Carrier's contention that the provisions of the December 17, 1941 National Vacation Agreement are pertinent to a resolution of this dispute, but we find no basis in that contention to alter our conclusion that the January, 1975 understanding was violated.

Regardless of the force reduction, there were employees to be relieved for vacation and the vacation periods had been assigned.

However, based upon our review of the entire record, we feel that the Claimant is entitled to the difference in earnings, if any, between July 6, 1975 and August 10, 1975 concerning the respective positions which the Claimant would have relieved during that period of time.

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 to the extent stated in the Opinion of Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1978.