

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22280
Docket Number CL-21978

David P. Twomey, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(Southern Pacific Transportation Company
((Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
(GL-8309), that:

(a) The Southern Pacific Transportation Company violated Rule 34(c) Note 1. thereof, of the Clerk's Agreement, when it filled a two day vacancy on Relief Position No. 1 by assigning a regularly assigned employe thereto contrary to its explicit prohibitive terms; and

(b) The Southern Pacific Transportation Company shall now be required to allow employe Adrian R. Rock eight (8) hours additional compensation at the time and one-half rate Position 200 July 30, 1972, and eight (8) hours additional compensation at the time and one-half rate of Position No. 206 July 31, 1972.

OPINION OF BOARD: The Claimant, Mr. Adrian Rock, was regularly assigned to Relief Position No. 1., which position was scheduled to relieve as follows:

July 27-Thurs.	#221, Train Clerk	7:00 A.M.-3:00 P.M.
" 28-Fri.	#221, Train Clerk	7:00 A.M.-3:00 P.M.
" 29-Sat.	#200, Chief Yard Clerk	7:00 A.M.-3:00 P.M.
" 30-Sun.	#200, Chief Yard Clerk	7:00 A.M.-3:00 P.M.
" 31-Mon.	#206, Train Clerks	7:00 A.M.-3:00 P.M.

For the period July 27 through July 31, 1972, however, the Claimant was providing vacation relief for Position No. 204 with assigned hours 7:00 A.M. to 3:00 P.M., under provisions of Rule 34(c). In the absence of a qualified Guaranteed Extra Board employe, the Claimant's Relief Position No. 1 was filled on an overtime basis by the regular incumbent of Position No. 221 on July 27 and 28, and the regular incumbent of Position No. 200 on July 29. On July 30 and 31, 1972, the Carrier permitted a regularly assigned employe to claim, and work, the remaining two days of the original five-day vacancy under the provisions of Rule 34(c). The Organization contends that this violated Note 1 of Rule 34(c). The Carrier disagrees.

The pertinent Agreement language is as follows:

"Rule 34

(c) If a qualified Guaranteed Extra Board employee is not available, position will be filled by the senior assigned employee who makes written application therefor and is qualified for such vacancy, and when assigned shall take all of the conditions of the position; if a qualified Guaranteed Extra Board employee thereafter becomes available he may not displace the regular employee filling the temporary vacancy unless he is senior to such regular employee.

"NOTE: 1. A vacancy under paragraph (c) of this rule will not be considered a vacancy available to an assigned employee unless it is known that the vacancy will exist for more than two (2) days."

At the time the vacancy first arose, the vacancy on Relief Position No. 1 was known vacancy of five days. The vacancy was not filled on July 27, July 28 or July 29 to the extent that no regularly assigned employee made proper application for the position under Rule 34(c), taking over and assuming all of the conditions of the position. As pointed out above the regular incumbents of Positions 221 and 200 filled the Relief Position on July 27, 28 and 29. The Carrier contends that July 30 and 31 were the last two days of a continuing vacancy of more than two days, and, that no language in the rule permits any one continuing vacancy to be broken into artificial segments. We find that the language of Note 1 is clear and unambiguous in specifying that a vacancy under paragraph (c) will not be considered a vacancy available to an assigned employee "unless it is known that the vacancy will exist for more than two (2) days." Clearly it was known when the Carrier accepted the written application under Rule 34(c) for July 30 and 31 that the vacancy would not exist for more than two days. We find that the Carrier's contention is contrary to the clear language.

We find Awards cited by the Carrier inapposite to the clear Agreement language of the instant case. We shall sustain the claim as originally presented at the pro rata rate of pay. There is no Agreement support for interest and any such request is denied.

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 as per Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 12th day of January 1979.