

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22573
Docket Number CL-22255

Dana E. Eischen, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8456) that:

1. The Carrier violated the effective Clerks' Agreement when it failed to bulletin and award Job No. 212, Relief Crew Caller, when it was vacated by the regularly assigned incumbent and was known to be vacant in excess of thirty (30) days.

2. The Carrier shall now be required to compensate Clerk Paul Vargo for eight (8) hours' pay at the pro rata rate of Job No. 212, Relief Crew Caller, which is in addition to any other earnings paid by the Carrier, commencing with July 5, 1976 and for each and every day thereafter that a like violation occurs.

OPINION OF BOARD: There exists on this property a Memorandum of Understanding dated December 21, 1962 which reads as follows:

"It was mutually agreed to fill the vacancies of vacationing employees as follows:

"1. Advertise vacation relief assignment for Crew Callers and Chief Crew Caller, who are vacationing throughout the year. Example: Employee who has been awarded the vacation relief assignment will cover each vacation assignment, and after finishing same, will return to his regular position. In the event no bids are received when the relief assignment is advertised and there are no qualified extra or furloughed employees available, the junior qualified regularly assigned employee not holding a Crew Caller assignment can be assigned to the vacation vacancy.

"2. The filling of vacationing Yard employees assignments will revert to the system applied prior to the year 1962. The Yard employees vacation assignment will be advertised at least 48 hours prior to the vacationing period, etc.

"This understanding to become effective January 1, 1963."

In compliance with the provisions of paragraph numbered one of this Memorandum of Understanding, Carrier posted a bulletin notice for a vacation relief assignment for Crew Caller vacation periods as follows:

July 5 through August 8, 1976 - Job No. 212

August 9 through August 22, 1976 - Job No. 211

September 20 through October 3, 1976 - Job No. 211

December 20 through December 26, 1976 - Job No. 211

This vacation relief assignment was awarded to Crew Caller E. Price.

The crux of this dispute concerns Carrier's refusal to bulletin the Crew Caller position (Job No. 212) which was held by Mr. Price.

Petitioner argues that when Price bid for and was assigned to the vacation relief assignment described above, his position (Job No. 212) became a vacancy which required bulletining in accordance with the provisions of Rule 25 - Advertising Positions.

Carrier contends that, by its very language, the December 21, 1962 Memorandum of Understanding recognizes that the employee who makes application for such Crew Caller vacation relief assignment retains ownership of his regular position as evidenced by the language which says:

"* * * Employee who has been awarded the vacation relief assignment will cover each vacation assignment, and after finishing same, will return to his regular position. * * *."

Carrier further contends, without contradiction, that this procedure has been followed since the Memorandum of Understanding became effective in 1963.

We are convinced from this record that Carrier's application of the provisions of the December 21, 1962 Memorandum of Understanding is correct. Therefore, we must deny the claim as presented.

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. Pauler
Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1979.