

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22684  
Docket Number CL-22838

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( 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-8788) that:

1. The Carrier violated the effective Clerks' Agreement when it refused to permit Clerk A. E. Wrobel to exercise his displacement rights over a junior employee effective with the date he was displaced, thereby depriving him of the work to which he was entitled;

2. The Carrier shall now compensate Mr. Wrobel for eight (8) hours' pay at the time and one-half rate of Position GT-1160-R for November 4, 1977.

OPINION OF BOARD: Claimant, A. E. Wrobel, was the regularly assigned incumbent of Position GT-522, a seven day position with assigned hours from 11:00 P.M. to 7:00 A.M. and rest days of Sunday and Monday. Under date of November 2, 1977, to be effective on November 4, 1977, Ms. Charlotte Carlin, an employee senior in service to claimant, exercised her displacement rights to Position GT-552. Claimant was thereby displaced from that position. Claimant, in turn, exercised displacement rights over junior employee L. Lear, incumbent of Position GT-1160-R, also to be effective November 4, 1977. Position GT-1160-R is a relief assignment with the following work week:

Sunday	GT-552	11:00 P.M. to 7:00 A.M.
Monday	Rest Day	
Tuesday	Rest Day	
Wednesday	GT-550	7:00 A.M. to 3:00 P.M.
Thursday	GT-550	7:00 A.M. to 3:00 P.M.
Friday	GT-554	3:00 P.M. to 11:00 P.M.
Saturday	GT-554	3:00 P.M. to 11:00 P.M.

Claimant was displaced on Friday, November 4, 1977 and sought to make his displacement on that same date in order to avoid a loss of earnings.

The Carrier refused to honor Claimant's displacement on November 4, 1977, and instead, deferred it until the following day, November 5, 1977. Thus, Mr. Wrobel was not an incumbent of any position on November 4, 1977. He seeks a day's pay for not being allowed to displace on November 4, 1977.

Carrier relies upon a 1959 case settlement for disposition of the matter. However, that settlement did not involve an identical fact situation.

The issue here is whether Claimant can exercise a displacement immediately upon actually being displaced. There is no evidence presented of such a prohibition. That being the case, Rule 42(a) is applicable to an employe moving from one assignment to another (Award 20 of the Public Board 31 between these parties). See also Award 22636. The claim will be sustained.

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 Employes involved in this dispute are respectively Carrier and Employes 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

The Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

*A. W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1979.