

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23286  
Docket Number CL-23387

Paul C. Carter, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,  
Freight Handlers, Express and Station Employees  
(Detroit, Toledo and Ironton Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8994) that:

(a) The Carrier violated the Rules Agreement, dated May 1, 1966, amended January 1, 1971, particularly Rules 3, 6, 11 and others, when on August 2, 1978, the position of Relief Yard and Inventory Clerk at Springfield, Ohio, was abolished but Carrier continued to work subject position until re-establishing subject position on September 7, 1978. This position improperly abolished as the duties still existed and necessary to be performed as evidenced by use of furloughed employees on subject position.

(b) The Carrier now be required to compensate M. A. Adams at the rate of \$58.85 including COLA for each and every date this position was filled by the furloughed employees after August 1, 1978. This compensation to be in addition to his regular earnings.

OPINION OF BOARD: The claim alleges that various rules of the Agreement were violated by reason of Carrier's abolishment of Claimant's position of Relief Yard and Inventory Clerk at Springfield, Ohio, effective August 2, 1978.

The Carrier states that the position was abolished in accordance with Agreement rules due to the requirements of the service; that Claimant Adams assumed furlough status when he failed to exercise his seniority to positions that were available to him; that on August 15, 1978, he marked off and declared himself unavailable for short vacancies and/or temporary assignments; that Claimant received a notice on August 17, 1978 to report for a permanent vacancy, and that he was subsequently removed from service by the Carrier when he failed to respond within seven days of receipt of the notice, in accordance with Rule 11 of the Agreement.

The issue involved herein is the abolishment of the Relief Yard and Inventory position at Springfield, Ohio.

We have reviewed the record carefully and are forced to the conclusion that the Organization has not proved a violation of the Agreement. While many assertions have been made, it is well settled that assertions alone do not constitute proof. We have no alternative but to deny the claim for lack of proof of a violation.

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

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. Paulke  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of May 1981.

