

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23355
Docket Number CL-22699

Dana E. Eischen, Referee

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

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8716) that:

(1) Carrier violated the effective Agreement, specifically Rules 1, 2 and 6(a), when Carrier required and/or permitted the Assistant Accounting Supervisor, a Carrier Official, an employee not under the scope of the effective Agreement to perform the duties assigned to Claimant, each day of Claimant's vacation period; September 26 through September 30, and October 3 through October 7, 1977. Also, the National Vacation Agreement was violated, specifically Article 5 and 6, when the work of the vacationing employee was performed without utilizing a vacation relief employee.

(2) Claimant A. D. Ollila, incumbent of the position of Switching Accountant, Minneapolis, Minnesota, shall now be compensated at the rate of time and one-half for eight (8) hours for each day of his vacation period, September 26 through September 30, and October 3 through October 7, 1977, at the rate of his position, in addition to compensation he has received for these dates for this violation of the effective Agreement.

OPINION OF BOARD: The facts of record are not in dispute and establish a violation of the Agreements. A non-unit supervisor performed Claimant's work while Claimant was on vacation. Carrier's primary defense of de minimus damage is not persuasive and the assertion that Claimant acquiesced or waived the right to challenge the Agreement violation is wholly unsupported in fact. In sustaining the claim we find that the damages sought are excessive and we shall award eight (8) hours for each claim date at the straight time rate.

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 indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Paulson*
Executive Secretary

Dated at Chicago, Illinois, this 14th day of August 1961.

