

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

(Brotherhood of Railway, Airline and Steamship Clerks
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Chicago Union Station Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-9989) that:

1. Carrier violated the effective Clerks' Agreement when on January 31, February 1 and February 29, 1984, it called Mr. M. K. Morley to fill a short vacancy on an overtime basis but failed to compensate him at the rate of his regular assignment which is higher than the position to which assigned;

2. Carrier shall now compensate Mr. Morley for the difference between the overtime rate of his position, Assistant Ticket Agent-Cashier, and that of a Ticket Seller position for each of the above referred to dates."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On the days in question vacancies existed on a position of Ticket Seller in Carrier's Suburban Ticket Office. The Claimant was a regularly assigned Assistant Ticket Agent Cashier who was observing his rest days. The Carrier called him to fill these short vacancies on an overtime basis. The overtime rate of Claimant's position is \$21.00 per hour, whereas the overtime rate of the position of Ticket Seller is \$19.515 per hour. The Claimant was compensated at the lower rate rather than the rate of his regularly assigned position.

A claim was filed seeking the higher rate. It was based on Rule 47 and an alleged practice of paying Assistant Ticket Agents-Cashiers their own rate when called as a Ticket Seller or Information Clerk to work on their rest days. Rule 47 states:

"(a) Employees temporarily or permanently assigned to higher rated positions or work shall receive the higher rates while occupying such positions with a minimum of two (2) hours. Employees temporarily assigned to lower rated positions or work shall not have their rates reduced.

(b) A 'temporary assignment' contemplates the fulfillment of the duties and responsibilities of the position during the time occupied whether the regular occupant of a position is absent or whether the temporary assignee does the work irrespective of the presence of the regular employee. Assisting a higher rated employee due to a temporary increase in the volume of work does not constitute a temporary assignment."

It is the conclusion of the Board that under these unique facts and circumstances the claim must be sustained. This conclusion is reached in light of the language of the rule and the evidence presented by the employees with respect to past practice.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of July 1988.