

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10213) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Medicine Lodge, Kansas, September 13, 1986, when it failed and/or refused to call J. M. Koehn to protect work not part of any assignment on a rest day of RFO Clerk Position No. 6030, a five day assignment.

(b) J. M. Koehn shall now be compensated eight (8) hours' pay at the rate of \$103.44 for Position No. 6030, September 13, 1986."

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 employes 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.

The significant events leading to this Claim arose on Saturday, September 13, 1986. On that date, the Carrier assigned a Zone Extra Board employee to perform the duties of Clerk Position No. 6030, a five day assignment position with no rest day relief. The Organization, in pursuing its Claim, mainly relied upon Rule 14, Filling Short Vacancies and Rule 32, Over-time and Calls of the parties' Agreement and a Letter of Understanding, dated June 3, 1980.


After careful review, the Board finds that the Organization has met its burden mainly for the reasons presented in its letter of January 9, 1987. However, the record also shows that, on the property, it was never disputed that the Carrier has since 1980 used Zone Extra Board employees on days not part of any assignment, the same situation that caused this dispute. Here, the Board relies upon the Carrier's letter of March 4, 1987. In view of this Claim, the Carrier is now on notice with respect to the proper application of the Agreement. Accordingly, we sustain part (a) of the Claim and deny part (b).

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1990.