

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30082  
Docket No. CL-30644  
94-3-92-3-568

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(Transportation Communications International  
Union)  
PARTIES TO DISPUTE: (  
(Elgin, Joliet & Eastern Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Union (GL-10844) that:

1. Carrier violated the effective agreement when it established a new position on March 25, 1991, the duration of which extended beyond twenty-five days, and failed to bulletin and award such position in accordance with the effective agreement;
2. Carrier shall now compensate the senior furloughed employe eight (8) hours' pay at the straight time rate of West End Clerk for April 19, 1991, and for each and every day thereafter that a like violation occurred."

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 employe 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 Organization maintains that its Agreement was violated when Carrier failed to timely bulletin the West End Clerk position at Kirk Yard, as required by Rule 9(a). Rule 9(a) states that new positions, permanent vacancies, and temporary vacancies, of a known duration of 25 calendar days or more, are to be bulletined. The West End Clerk position was initially worked on March 25, 1991, and filled regularly, except for weekends and four scattered days that

were not weekends, until it was bulletined on May 13 and awarded on May 20, 1991.

Carrier resists the claim on a variety of grounds, but mainly that the Organization is seeking to force the Carrier to maintain a workforce larger than the Agreement requires. Further, when business projections indicated that there was reasonable evidence that the position was needed beyond 25 calendar days it was bulletined.

From an uncomplicated reading of Rule 9(a), and the evidence in this record, the Board concludes that the Agreement was violated. The Claim will be sustained from the date of initial claim (April 19, 1991) until May 13, 1991, the date Carrier posted a bulletin covering the assignment. (See Third Division Awards 24070, 26557, 27873, 28055, for similar holdings.)

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Catherine Loughrin  
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 15th day of March 1994.