

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 30129
Docket No. CL-29144
94-3-90-3-120

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

PARTIES TO DISPUTE: (Transportation Communications International
(Union
(Chicago, West Pullman & Southern Railroad
(Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10419) that:

1. Carrier violated the effective agreement when it failed to compensate Mr. Larry Miller for vacation earned in 1988 and not taken in 1989.
2. Carrier shall now compensate Mr. Miller for fifteen days' pay at the rate of Chief Clerk for such vacation pay."

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.

There is no dispute that the Claimant worked 135 days in 1988. The question is whether his service was performed under the umbrella of the collective bargaining agreement or an individual agreement between him and the Carrier.

In view of the previous determination in Third Division Award 29295 and the findings of Award 5, Public Law Board No. 4981 and based on the evidence of the record, we are compelled to find the work performed by the Claimant was under the Clerks' Agreement. Accordingly, he is entitled to the vacation claimed.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin / lw
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 4th day of April 1994.