

RECEIVEDNATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

JAN - 5 1995

Award No. 30628
Docket No. CL-31118
94-3-93-3-244

G. L. HART

The Third Division consisted of the regular members and in addition Referee Robert Richter 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
Brotherhood (GL-10950) that:

1. Carrier violated the effective agreement when it failed to afford Clerk Shirley Allen the opportunity to fill short vacancies on January 6 and 7, 1992, in accordance with her seniority;
2. Carrier shall compensate Claimant Allen eight (8) hours' pay at the time and one-half rate of Assistant Chief Yard Clerk 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 employee or employees involved in this dispute are respectively carrier and employee 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 claim dates Claimant was called during the 5:00 AM to 7:00 AM calling period for a vacancy on the 7:00 AM ACYC position.

There is no dispute as to the facts in this case. On both claim dates the Carrier's caller attempted to reach the Claimant. Both times the caller got the Claimant's message machine. Claimant admits the phone rang, but she was momentarily unable to reach the telephone. The caller left no message for the Claimant. After failing to reach the Claimant, the caller called another employee to fill the two vacancies. Also, there is no dispute that if the Claimant had been reached she was the proper employee to fill the vacancies.

The only dispute before the Board is whether the Carrier made a reasonable effort to reach the Claimant. The Organization contends that the Carrier's caller should have left a message on the answering machine. Had the caller left a message there is no guarantee or any Rule which would require the Claimant to call the Carrier. If the Claimant decided not to work that day all she had to do was ignore the message. The Carrier was required to fill the vacancies. When the caller reached the Claimant's answering machine, it satisfied the requirement of making a reasonable effort to reach the Claimant. The Agreement was not violated.

AWARD

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of December 1994.