

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 31552  
Docket No. CL-32175  
96-3-94-3-601

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

(Transportation Communications International  
( Union  
PARTIES TO DISPUTE: (  
(Chicago, Central and Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the Organization that:

- (1) Carrier violated the Clerks Agreement when TCU Vacation schedules were arbitrarily changed causing a violation of the seniority rights of the following employees: K.A. Hummell, D.A. Savage, R.K. Metcalf, M.E. Rowland, K.E. Broell, T.G. Gilbert, J.M. Dean, B.F. Benson, S.M. Bulick, B.K. Stettler.
- (2) Carrier shall now be required to compensate the employees involved in the amounts claimed, due to the violation."

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.

This dispute arose because the Organization contends that the Carrier made improper changes to the 1994 vacation schedule.

After careful review of the evidence developed on the property, the Board finds that the claim must be dismissed for a number of reasons. First, the claim before the Board is substantively different from the claim handled on the property. Second, the Organization failed to show on the property what specific Agreement provision had been violated by the Carrier. A statement that Rule 33, Vacation was violated because the Carrier did not give "due regard to seniority and desires of the Claimant," does not meet the Organization's burden of proof responsibility.

AWARD

Claim denied.

ORDER

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 25th day of July 1996.