Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 32764
Docket No. CL-33552
98-3-96-3-1082

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

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

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11605) that:

1. Carrier violated the Agreement between the Parties when between December 25, 1995 and January 21, 1996, Carrier did not properly compensate Clerk G. A. Zollecki, Hawthorne, Illinois, in accordance with the Letter of Understanding dated November 7, 1985, and the Memorandum of Agreement dated May 31, 1991.

2. Carrier shall now be required to compensate Claimant at his protected rate for the period claimed above."

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 were given due notice of hearing thereon.

Claimant began his railroad career with the Illinois Central Railroad ("IC") and was working in the Hawthorne, Illinois, Yard in 1985 when the IC sold its trackage

between Chicago, Illinois, and Omaha, Nebraska, to the Carrier. The Carrier agreed to hire a number of IC employees who would resign from IC. At the time of the sale, an Agreement was made with the Organization that the Carrier would pay employees coming over from IC "Grandfather Rates," i.e., rates of pay at least equal to those they had received while working for their former employer.

On May 31, 1991, the Grandfather Rate Agreement ("GRA"), was amended to clarify that Clerks with rate protection, while still having the obligation to work on the highest rated job available to them, would not be required to take a position that would require them to change their headquarters point. It is the second paragraph of the Amendment that is at the heart of this dispute. That paragraph reads:

> "An employee will not be required to place on any position that would necessitate a change in headquarters point in order to be entitled to the benefits of the Grandfather provision."

Claimant took a position with the Carrier. Five years after taking over the trackage between Chicago and Omaha, the Carrier began to centralize operations at its Waterloo, Iowa, headquarters. A number of positions at outlying points were abolished and new positions were created in Waterloo. On May 28, 1994, Claimant's position at Hawthorne was abolished. With the abolishment Claimant had two options, i.e., he could elect to protect short vacancies at Hawthorne as a furloughed employee or he could exercise his system-wide seniority to a position in Waterloo. Claimant chose to remain at Hawthorne as a furloughed employee.

Three months after Claimant was furloughed, Carrier notified him that his headquarters point was changed to Waterloo, and that he would be called to protect short vacancies from that location. It is not disputed that Carrier had license to change Claimant's headquarters point as it did, and that he had system-wide seniority and could work out of Waterloo. Claimant indicated that he would not fill short vacancies out of Waterloo. Thereafter, Claimant was carried on the roster as unavailable.

The last day that Claimant performed service for the Carrier was May 27, 1994. He was under pay, but on vacation until June 24, 1994. Between June 24, 1994 and October 1994, Claimant periodically filed payroll claims requesting compensation under the GRA. These claims were not progressed off the property. In January 1996 the claims for GRA payments resumed. The claim under review here, which covers two pay periods between December 25, 1995 and January 21, 1996, contends that Claimant is entitled to 40 hours pay per week under the GRA.

The Carrier contends that the claim is without merit. It suggests that Claimant is confusing its GRA with a protective agreement, one providing compensation for furloughed employees. Carrier argues that Claimant is misreading the literal intent of the second paragraph of the Amendment.

The Board carefully studied the pertinent language of the GRA and the Amendment. We also afforded full consideration to the several arguments made by the parties. It is our conclusion that Claimant is confusing an agreement that provides certain rate protection for time worked with an agreement that provides compensation under certain conditions to furloughed employees. There just is no furlough protection agreement in place on this Carrier. The GRA and/or the Amendment cannot fairly be read to provide furloughed protection. The GRA and/or Amendment do not provide payments for not working. What they do provide is rate protection while working. Nothing more.

Accordingly, the claim under review here is not supported by any Agreement provision whatsoever. The Board finds it to be without merit.

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 23rd day of September 1998.