

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33503
Docket No. CL-34842
99-3-98-3-554**

The Third Division consisted of the regular members and in addition Referee Robert G. Richter when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12120) that:

This Claim is filed on behalf of Mr. Richard Knox, TSR, North Billerica, Massachusetts. This Claim is for June 22, 1997, and June 27, 1997, at the rate of eight (8) hours time and one-half.

The Carrier violated the Agreement when it allowed a junior Employee, Mr. John Vasquez, to cover the 0700 Clerk's position at East Deerfield Yard on the above-listed dates, when on June 18, 1997, Mr. Vasquez was awarded Holyoke Agent's position in North Billerica, Massachusetts.

The Carrier Rules violated are 11.1, 11.4, 18A.2, and all other rules of this agreement.

This Claim is valid and must be paid.”

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.

On June 22 and 27, 1997 a vacancy existed on the 7:00 A.M. Clerk position at East Deerfield Yard. The Organization has filed this claim because an employee junior to the Claimant was used to fill the vacancies.

The Carrier responded to the claim by stating the Claimant requested that he not be called on Sunday, June 22. On June 27 Carrier states it did not have a qualified employee to fill the Claimant's position. Therefore, in accordance with Rule 21.1 it did not have to use the Claimant on the vacancy.

The Organization never disputed the Carrier's position in the handling of this claim. Accordingly, it failed to meet its burden that the Agreement was violated.

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 22nd day of September 1999.