

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33594
Docket No. CL-33209
99-3-96-3-645**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Burlington Northern Santa Fe Railroad**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11405) that:

(a) Carrier violated the provisions of the current Clerks’ Agreement at Schaumburg, Illinois, on May 3 and 4, 1993, when it reassigned (changed) Claimant’s Ariondo’s vacation without giving proper notice; and

(b) Claimant M. J. Ariondo shall now have two (2) vacation days that were forced assigned to Claimant on May 3 and 4, 1993, by the Carrier, without request from Claimant and without proper notice from the Carrier, returned and credited to Claimant’s vacation bank.”

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 is the regularly assigned occupant of Position No. 6004 at the Carrier's Customer Service Center at Schaumburg, Illinois, Monday through Friday, 7:00 A.M. to 3:30 P.M. On May 3, 1993, a personal emergency required Claimant to be absent from work on May 3 and 4, 1993. Claimant called the Schaumburg office at 6:00 A.M. on May 3, 1993 requesting to be absent without pay. Claimant initially called Team Leader M. E. Christmon, whose phone mailbox was full. Claimant then called another employee and left a message with that employee that she had to take off for personal reasons and requested that the message be forwarded to Christmon.

Claimant did not work on May 3 and 4, 1993. Those days were not included in her previously scheduled vacation days.

The Carrier advised Claimant that she had a week to decide if she wanted to use vacation days for the two days she took off. Claimant did not respond. The Carrier then charged Claimant with two vacation days. This claim followed.

The Organization characterizes this matter as a vacation dispute. It is not. This is a dispute concerning a request for time off outside of vacation.

The Carrier asserts that Customer Service policy requires employees seeking time off to talk to a supervisor and not leave a phone message. Claimant attempted to leave a message with a Team Leader, but that phone mailbox was full. Claimant then had another employee forward her request to supervision. Limited to the facts of this case, while it is a managerial prerogative to grant such a request, the Carrier must articulate why, under the circumstances, Claimant's request could not be granted. The record does not sufficiently explain why that request was denied. Claimant shall be entitled to take two days off without pay.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 16th day of November 1999.