

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33837
Docket No. CL-33356
99-3-96-3-812**

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: (
(The Burlington Northern and Santa Fe Railway Company**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11471) that:

- 1. Carrier violated the BN/TCU Working Agreement at Alliance, Nebraska, on December 2, 1991, when it failed to call the first-out GREB Clerk, Mr. L. R. Rosane, for the vacancy on Position 308 at the Alliance Terminal, at 11:00 p.m.**
- 2. The Company shall now be required to pay Mr. Rosane for eight (8) hours straight time pay, in accordance with Rules 12 and 13 of the BN/TCU Working Agreement."**

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.

At the relevant time, Claimant was an Alliance, Nebraska, based Clerk who occupied a position of the Guaranteed Rotating Extra Board (GREB). Claimant was first out and rested on Monday, December 2, 1991, when the second out GREB employee was called to

fill a vacancy at 11:00 P.M. for a three day vacancy on a Crew Hauler position. Claimant was then called from his first out position on the GREB to fill a one day vacancy on the Chief Clerk Cashier position on the following shift, commencing at 8:00 A.M. on Tuesday, December 3, 1991. Claimant was paid the highest rate of the positions plus one hour at the pro rata rate. The claim asserts that Claimant should have received eight hours for a lost work opportunity.

The January 14, 1983 Letter of Understanding provides for compensation for GREB employees not allowed preference to vacancies commencing within a spread of one hour under Rule 13, Paragraph 7. Paragraph 2 of the January 14, 1983 Letter of Understanding is relevant:

- “2. GREB employees required to work a vacancy on a different shift will be compensated at the rate of the highest rated position involved, plus an additional payment of one (1) hour at the pro rata rate.”

Paragraph 2 lends itself to a potential abuse in that “on a different shift” could be interpreted liberally to permit the avoiding of a preference and the holding off of an employee for days. However, that is not what happened here. Although first out on the GREB on December 2, 1991, Claimant was held off less than 24 hours and was called on the following shift. Here, a hold off of less than 24 hours was a reasonable exercise of the Carrier’s authority and did not amount to an abuse of Claimant’s preference. Claimant was compensated for one hour at the straight time rate under Paragraph 2. Under the circumstances, we cannot find Claimant was entitled to more.

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 21st day of December 1999.