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SPECIAL BOARD OF ADJUSTMENT NO. 167

AWARD NO. 16

Organization's File

102-C-19

Carrier's File

CL-45-55

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

"(1) The terms of the current Agreement, including Vacation Agreement, were violated when commencing June 29, 1955, the Carrier failed to properly fill Mr. V. F. Howlett's position of Yard Checker, 12 Noon to 9:00 p.m., at Provo, Utah, while he was on vacation.

"(2) That as a penalty for the rules violation Mr. Melvin M. Elder, Yard Checker at Provo, be paid ten days' pay at rate of Yard Checker."

FINDINGS: The work at the Provo Yard largely concerns coal shipments. All the coal miners in the State of Utah took a holiday from June 25 to July 11, 1955, with the result that there was very little yard checking to be performed at Provo during that period. Two yard checkers were employed: Mr. Howlett, with work week Monday thru Friday from 12 noon to 9 PM, and claimant, with work week Wednesday thru Sunday 10:45 PM to 7:45 AM.

Yard Checker Howlett was assigned a vacation period from June 29 to July 8, which occurred during the period of the coal miners' holiday. His position was abolished effective June 29 at the beginning of his vacation period and four days after the beginning of the miners' holiday, and it was reestablished on July 11, the date of the ending of the miners' holiday and three days after the end of Mr. Howlett's scheduled vacation. During the period when the position was abolished the hours of the General Clerk were changed from 7 AM - 4 PM to 9:45 AM - 6:45 PM and he performed some of the yard checking formerly performed by Mr. Howlett.

Employees contend that the Yard Checker position was abolished during the vacation period for the purpose of avoiding the Vacation Agreement and that since 100 per cent of the duties of the position were assigned to other

employees Carrier was obligated to provide a vacation relief worker. Carrier contends that the decline in business justified a reduction in force abolishment of the position of yard checker in connection with the miners' holiday; that it was abolished following the start of the holiday and was reestablished only upon the termination of the holiday and the work that remained of the position was assigned to the other yard checker and to the general clerk who held a higher rated position.

There is nothing before us to show that the Carrier was not justified in abolishing the position during the coal miners' holiday or that it was not done in good faith because of the decrease of the work to be performed.

The employees rely also on the fact that in reply to a letter from the Agent saying he wanted to reinstate the Howlett position as of July 11 and assumed that it had to be bulletined, the Superintendent wrote under date of July 15:

"We will consider Howlett as still assigned to this position without bulletining in this particular instance because of the drop in business during his vacation period it not being necessary to fill the position with a vacation relief worker."

It is urged that thereby he rescinded the abolishing of the position. After the abolishing had been duly bulletined and had gone into effect it was too late to rescind the action.

AWARD: Claim denied.

/s/ Mortimer Stone  
Mortimer Stone  
Chairman, Neutral Member

Wm. J. Donlon  
Organization Member

/s/ D. L. Clavel  
D. L. Clavel  
Carrier Member