

AWARD NO. 52
CASE NO. 52

SPECIAL BOARD OF ADJUSTMENT NO. 171

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

vs.

GREAT NORTHERN RAILWAY COMPANY



STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that the Carrier violated the current agreement and,

1. That the Carrier be required to compensate each of the following named employees account non-compliance with the Agreement of July 30, 1949, covering rates of pay applicable to employees holding accumulated rest day assignments as follows:

S. Glicken One day's pay at the rate of time and one-half for each of the dates of December 21 and 28, 1957 and January 4, 1958, which are rest days accumulated by this employee.

C. Branvold One day's pay at the rate of time and one-half for each of the dates of December 21 and 28, 1957 and January 4, 1958, which are rest days accumulated by this employee.

O. Shabert One day's pay at the rate of time and one-half for the date of January 4, 1958, which was a rest day accumulated by this employee.

B. Hodges One day's pay at the rate of time and one-half for each of the dates of December 28, 1957 and January 4, 1958, which are rest days accumulated by this employee.

W. Foy One day's pay at the rate of time and one-half for each of the dates of December 14, 21 and 28, 1957 and January 4, 1958, which are rest days accumulated by this employee.

A. Odegaard One day's pay at the rate of time and one-half for each of the dates of December 21 and 28, 1957 and January 4, 1958, which are rest days accumulated by this employee.

M. Peterson One day's pay at the rate of time and one-half for the date of January 4, 1958 which was a rest day accumulated by this employee.

DeWitt Johnson One day's pay at the rate of time and one-half for each of the dates of December 14, 21 and 28, 1957 and January 4, 1958, which are rest days accumulated by this employee.

less any straight time allowance granted to the above named employees for rest day service performed.

2. In addition thereto, that the Carrier also be required to compensate the following employees, account failure on the part of the Carrier to permit each of them their respective right to exercise seniority and work positions of their choice, as free agents, when their positions were abolished.

S. Glicken One day's pay at the pro-rata rate for each of the dates of January 13, 14 and 15, 1958, account denied the right to fill Yard Checker position to which assigned by bulletin. Hours of assignment 8:30 AM to 5:30 PM.

C. Branvold One day's pay at the pro-rata rate for each of the dates of January 13, 14 and 15, 1958, account denied the right to fill Baggage Checker's position. Hours of assignment 7:00 AM to 4:00 PM.

O. Shabert One day's pay at the pro-rata rate for the date of January 13, 1958, account denied the right to fill position of checker. Hours of assignment 9:00 AM to 6:00 PM.

B. Hodges One day's pay at the pro-rata rate for each of the dates of January 15, 16 and 17, 1958, account denied the right to fill Steno Position. Hours of assignment 8:30 AM to 5:30 PM.

W. Foy One day's pay at the pro-rata rate for each of the dates of January 14, 15, 16 and 19, 1958, account denied the right to fill Yard Checker position. Hours of assignment 8:00 AM to 4:00 PM.

A. Odegaard One day's pay at the pro-rata rate for each of the dates of January 13, 14 and 15, 1958 account denied the right to fill Checker position. Hours of assignment 8:00 AM to 5:00 PM.

M. Peterson One day's pay at the pro-rata rate for the date of January 20, 1958 account denied the right to fill the position of Checker. Hours of assignment 12:00 Midnight to 8:00 AM.

DeWitt Johnson One day's pay at the pro-rata rate for each of the dates of January 16, 17, 18 and 19, 1958 account denied the right to fill the position of Expedite Driver. Hours of assignment 9:00 AM to 6:00 PM.

FINDINGS:

The employees state that the Carrier has violated the agreement of July 30, 1949, and that it be required to compensate the claimants who held accumulated rest days and who were refused their right to exercise seniority on other positions by the Carrier.

Employees further state that on January 3, 1958, the Carrier issued a wire notice to these claimants notifying them that their positions were being abolished, with one exception, effective with the date of January 10, 1958, at the end of each assignment; that in conjunction with the notice of abolishment, the Carrier issued bulletins No. 1 through 6, inclusive, re-establishing, by change in assignment and/or re-assignment of work, these same positions. That the Carrier bulletined the new assignments in advance so as to accomplish continued service in accumulation up to January 10, 1958, and at the same time have on that date the

successful applicants to the new 5 day positions that would go into effect on Monday, January 13, 1958. That each of the claimants upon being notified that their positions under the accumulation set up were being abolished, filed a claim at the punitive rate for the number of days each had accumulated and, in addition thereto, each of the employees, upon having their positions abolished, notified the Carrier of their desire to displace or exercise seniority to the position of their choice and that the Carrier denied each of these claimants their right to exercise displacement rights under the Effective Agreement.

Agreement of July 30, 1949, Section (3) reads as follows:

"(3) It is agreed that in cases where it is not practicable to provide relief by the establishment of a relief assignment, as contemplated by Paragraph (e) of Section 1, Article II of the March 19th 1949 agreement, such rest time may be accumulated, with the understanding that such accumulation will be limited to ten (10) days.

If an employee who has accumulated relief days bids in or transfers to another position before he can be relieved for the number of rest days accumulated, he shall be allowed additional compensation for such accumulated rest days at one-half rate, provided he had previously only received pro rata for working same.

Employees who leave the service with accumulated rest days due them; will, if they have been paid pro rata for working such relief days, be paid an additional one-half rate for each such day, except that employees who leave the service of the carrier of their own volition for any purpose other than to accept an annuity under the Railroad Retirement Act shall forfeit their right to such added compensation."

The Carrier states that the Agreement of July 30, 1949, was entered into with the Organization to provide for accumulative relief assignments where established for employees on 6 day positions at the Carrier's Grand Forks Freight office. That under the arrangement each employee worked 6 days each week for 5 weeks, accumulating one rest day each week; and he then was relieved for the entire 6th week, such employee receiving 5 days straight time pay for each of the 6 weeks, including the week of rest; that during January, 1958, the accumulative relief set up at the Grand Forks Freight office was terminated and in order to accomplish this the accumulative assignments were abolished and new 5 day positions were bulletined; that the eight claimants in this docket are employees who had accumulated rest days under the accumulated set up and exercised seniority to other jobs. That those claimants were relieved for the rest days they had accumulated before starting work on their new assignments. That all the claimants have already been paid one straight time day for each rest day accumulated. That none of the claimants have accumulated more than 4 rest days and therefore none was relieved for more than 4 days before resuming work.

It is the Carrier's position that they were required to relieve these employees for the rest days accumulated and the penalty provisions of the Agreement were written to discourage any contrary handling.

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The Carrier further states that the claimants were not entitled to commence work immediately on their new assignments irrespective of the requirements of the accumulated agreement and that there is no rule in the Effective Agreement which provides that the claimants were entitled to commence work immediately on the new assignment, that Rule 10(d) contemplates that successful applicants who have been assigned to bulletined positions may be held off before assignment as long as 5 days after notice of assignment.

The Arbitrator finds from a careful reading of the submissions and the argument advanced by the parties, that these claimants were relieved on their accumulative rest days and that therefore the Carrier did not violate the Memorandum of Agreement of July 30, 1949, and these claimants were properly paid by the Carrier for their accumulated rest days.

The Arbitrator further finds that under Rule 10(d) which reads as follows:

"(d) Successful applicants for bulletined positions will be placed thereon as quickly as necessary transfers can be effected but not later than five (5) calendar days after notice of assignment. If not placed upon the position within the specified time limit, successful applicants thereafter will receive not less than the rate of the position to which assigned. If there are no qualified applicants on bulletin and no applicants for transfer from other seniority districts under Rule 20, such positions may be filled by the Company from such source of supply as it deems proper."

that successful applicants for bulletined positions will be placed thereon as quickly as necessary transfers can be effected but not later than five days. That gives the Carrier the right to fill bulletined positions up to 5 days after the successful applicant has been announced. Therefore, the Carrier did not violate the Effective Agreement when these employees were relieved and were not placed upon the bulletined positions they bid in within the 5 days, but were placed upon the positions under the wording of Rule 10(d). Also, under Rule 18(a) these claimants who had their positions abolished did not attempt to bump any junior employee they desired to replace nor did they file written request to do so, but bid in the new 5 day positions as bulletined. Therefore, the violation of Rule 18(a) is not well taken by the Organization.

A W A R D

Claim 1 and Claim 2 denied in accordance with the opinion.

/s/ Thomas C. Begley
Thomas C. Begley, Chairman
/s/ C. A. Pearson
C. A. Pearson, Carrier Member
/s/ C. C. Denewith
C. C. Denewith, Employee Member

Signed at St. Paul, Minnesota this 10th day of February, 1959.