

AWARD NO. 23

CASE NO. 26
SSW FILE 47-493-2

SPECIAL BOARD OF ADJUSTMENT NO. 353

PARTIES) Transportation-Communication Employees Union
TO)
DISPUTE) St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

Claim of the General Committee of the Transportation-Communication Employees Union on the St. Louis Southwestern Railway Lines, that:

1. Carrier violated the agreement between the parties when it failed and refused to properly compensate H. R. Lucas, Jr. for services performed on June 26, 27, 28 and 29, 1964.

2. Carrier shall compensate H. R. Lucas, Jr. in the amount of eight hours at the time and one-half rate on each of the dates mentioned above.

OPINION OF BOARD:

On May 26, 1964, the first shift clerk-telegrapher position at "QN" Tyler, Texas was advertised for bid and Claimant was the successful bidder. At the time Claimant was regularly assigned as second shift clerk-telegrapher at Greenville, Texas. The hourly rate of the Tyler position was \$2.6228, the hourly rate at Greenville was \$2.5228. Claimant was assigned to the Tyler position by Carrier's letter of June 9, 1964.

On June 22, 1964, the Chief Dispatcher wired Claimant inquiring as to when he intended to protect his assigned position at Tyler.

On June 24 Claimant replied as follows:

"D-1034. If agreeable with you would like to protect Tyler job next Wednesday July 1st, as have my rent paid at Greenville until then. Thanks."

Claimant's request was allowed and he remained at Greenville through his work week ending June 29, 1964. He protected his assignment at Tyler beginning July 1.

The Employees filed a claim alleging Carrier violated Article 13-1 of the agreement and claiming 4 days' pay at time and one-half under Article 16-1.

These Articles read:

"Article 13

"13-1. Except as per Article 13-2 permanent vacancies and permanent additional positions shall be bulletined to all employees on the division; bulletin to show location, position, hours of service and rate of pay and the senior employee covered by this agreement making written application within ten (10) days from date of bulletin, if competent, shall be assigned. The successful applicant shall be notified of his assignment within twenty (20) days from date of bulletin. If transfer is not made within thirty (30) days from date of bulletin the employee shall be paid not less than assigned daily earnings of position awarded, penalty beginning after expiration of thirty (30) days from date of bulletin. Assignments shall be posted promptly by bulletin for information of all employees on the division. An agent at regular telegraph station to whom the duties of telegraphing are assigned or withdrawn will not be disturbed in his position by reason of such changed duties. An employee to whom the duties of cashier are assigned or withdrawn will not be disturbed, except that proper adjustments in rate of pay will be made in line with similar positions on the division. Bulletins will be numbered consecutively commencing with Number One, January 1st, each year and each vacancy or new position will be bulletined within five (5) days from date of vacancy or creation.

"16-1. A regularly assigned employee who is taken off his assignment to perform relief or emergency work at an office or station other than the one to which assigned will be compensated at the rate of time and one-half the straight-time rate of the position filled, and shall be paid actual necessary expenses while away from his home station."



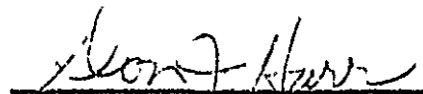
It is clear to this Board that Article 16-1 has no application here. Article 13-1 provides a penalty where an employee is not transferred within 30 days of date of bulletin. The Claimant was entitled to be paid the higher rate beginning 30 days after date of bulletin as set forth in Article 13-1.

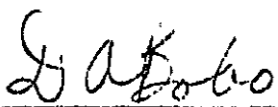
We agree with the Employees' contention that voluntary action by an individual employee cannot abrogate or nullify the provisions of a collective bargaining agreement. However, both parties should be concerned with the welfare of individual employees. In the instant case Carrier acted at Claimant's request and in his own best interest.

We will deny the claim.

FINDINGS: That the agreement was not violated.

AWARD: Claim denied.


Don J. Hark, Chairman


D. A. Bobo, Employee Member


M. L. Erwin, Carrier Member

Tyler, Texas
December 28, 1966