

**Award No. 18661**  
**Docket No. CL-18970**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Robert A. Franden, Referee**

**PARTIES TO DISPUTE:**

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

**THE WESTERN PACIFIC RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6821) that:

1. The Carrier violated the Rules of the Agreement extant between the parties when it assigned Mrs. G. S. Crawford to an unassigned position at Oroville, California on April 23, 1969, instead of assigning Mrs. D. J. Stanley, who was the senior furloughed clerk.
2. Mrs. Stanley shall now be allowed a day's pay for each day that Mrs. Crawford worked the position, including any overtime applicable thereto.

**EMPLOYEES' STATEMENT OF FACTS:** On date of April 23, 1969, Mrs. D. J. Stanley was employed in the service of the Western Pacific Mechanical Department as a furloughed Round House Clerk, as was Mrs. G. S. Crawford. The seniority dates of these clerks is October 23, 1967 and August 7, 1968, respectively. Junior Clerk G. S. Crawford was assigned to a Roundhouse Clerk vacancy at the Oroville Roundhouse on April 23, 1969, as evidenced by Clerks' Circular No. 4-69 (Employes' Exhibit A). A claim was filed with Chief Mechanical Officer, E. T. Cuyler, through Local Chairman, W. L. LeBeouf's letter of June 21, 1969 and was declined by Mr. Cuyler through his letter of June 26, 1969 (Employes' Exhibit B). A subsequent letter was written to Local Chairman LeBeouf by Mr. Cuyler dated July 1, 1969, wherein he contended that the claim was not timely filed. (Employes' Exhibit C). Claim was then appealed to Mr. W. A. Tussey, Manager of Personnel, the highest officer of the Carrier authorized to handle disputes on the property, as shown in Employes' Exhibit D. Conference was held on October 14, 1969, and claim was declined by Carrier October 17, 1969. (Employes' Exhibit E).

(Exhibits not reproduced.)

**CARRIER'S STATEMENT OF FACTS:** During the period involved in the instant dispute, Carrier maintained the following positions and Regular Relief Assignment in the Diesel House at Oroville, California:

(d) Such employes, when available, shall be given preference on a seniority basis to all extra work, short vacancy and/or vacancies occasioned by the filling of positions pending assignment by bulletin. When a bulletined new position or vacancy is not filled by an employe in service senior to a furloughed employe on that roster who has protected his seniority as provided in this rule, the senior qualified furloughed employe will be called to fill the position. Furloughed employes failing to return to service within 7 days after being notified (by mail or telegram sent to last address given) or give satisfactory reason for not doing so, will be considered out of the service. Employes hired for the performance of extra work shall be considered as furloughed employes under this rule.

(e) Employes who, account reduction in force, have performed no service for a period of 5 years will be considered out of the service.

NOTE: Furloughed employes desiring to waive their right to return to service on positions or vacancies of 30 calendar days' or less duration may do so by filing written notice with the proper officer, as defined above, and the General Chairman; such notice may be canceled or terminated in the same manner."

(Exhibits not reproduced.)

**OPINION OF BOARD:** The Carrier has raised the issue of the 60 day time limit rule under the August 21, 1954 Agreement.

Article V, 1(a) (in part):

"All claims or grievances must be presented in writing by or on behalf of the employe involved to the officer of the carrier authorized to receive same within 60 days from the date of the occurrence on which the claim or grievance is based."

The claim in the case at bar was deposited in the company mail within the 60 day period, but was not received by the proper carrier officer until the 60 day period had expired. Depositing a claim in the company mail is not presenting it as called for in the aforementioned Article. The Agreement with the Carrier relative to the acceptance of the cancellation stamp date as the filing date has no bearing in cases where the claimant has elected to use a form of letter delivery which does not utilize a cancellation stamp. It is obvious that the intention of the parties was to accept the cancellation stamp utilized by the U. S. Postal Service to void its postage stamps.

We hold that the claim is barred by the time limit rule.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim is barred.

**AWARD**

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

**ATTEST: E. A. Killeen**  
**Executive Secretary**

Dated at Chicago, Illinois, this 29th day of July 1971.