

Referee Irwin M. Lieberman

PARTIES TO DISPUTE: Railroad Yardmasters of America
The Atchison, Topeka and Santa Fe Railway Company - Coast Lines

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:

Yardmaster J. R. Hays, be allowed 5 days pay at yardmaster rate for December 27 thru December 31, 1973, account violation of Article 4, Sections 2 and 3, as well as Article 13, Section 2 (A) Note; of the current Agreement.

OPINION OF BOARD: Through an admitted error on Carrier's part Yardmaster Armstrong was denied his fourth week of vacation for the year 1973. Following the filing of a Claim on Yardmaster Armstrong's behalf, he was allowed an additional forty hours compensation at the time and one-half rate, paid in January 1974, in accordance with the Agreement, for working the fourth week of his vacation. Claimant herein was the senior un-assigned extra Yardmaster when Yardmaster Armstrong worked during his claimed vacation period, and contends that he should have been used as a Yardmaster on the Claim dates.

Petitioner contends that Claimant was denied the contractual right to work as a Yardmaster when Carrier refused to grant the requested vacation of the regular employe. It is argued that Carrier "...refused to permit a vacancy to occur, and since it would have been a known vacancy it would be protected by the Claimant."

Carrier contends that there was no vacation vacancy since Yardmaster Armstrong worked the fourth week of his vacation. Carrier also asserts that the Claim herein is a "chain reaction" type of claim which the Board has denied in the past. It is also argued that the Claim lacks rule support, is based on conjecture and if granted would provide Claimant with an unwarranted windfall.

There have been a number of Awards dealing with almost identical issues as that herein. In Third Division Award 7404 the Board held that:

"There is no basis for a claim by a second employe where the vacation was worked and pay in lieu thereof was offered and accepted."

Similarly the Board denied related claims in Third Division Awards 10719 and 11098. Those Awards are directly in point and we concur with the opinions expressed therein. If Petitioner's logic is correct a claim such as that herein could result in a chain of valid never ending claims; there has been considerable reluctance on the part of various Boards to approve chain reaction type claims (e.g. Third Division Award 11458, Award No. 20 of Public Law Board No. 735). We also are of the opinion that such chain reaction type of claims are invalid. Furthermore, the facts in this dispute clearly indicate that there was indeed no vacation vacancy which Claimant could have worked.

For the foregoing reasons we find that there has been no violation of the Agreement.

FINDINGS:

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier and the employe involved in this dispute are respectively carrier and employe 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.

The parties to said dispute were given due notice of hearing thereon.


The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST: Executive Secretary
National Railroad Adjustment
Board

By: 
Assistant Executive Secretary

Dated at Chicago, Illinois, this 8th day of May 1975