

Award No. 2154

Docket No. 1977

2-IC-EW-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Vacation Agreement retired Electrician F. A. Chappell has been improperly denied payment in lieu of an additional five days vacation due him in the year 1954.

2. That accordingly the Carrier be ordered to additionally compensate this retired employe in the amount of forty (40) hours' pay in lieu of his additional five days of vacation in the year 1954.

EMPLOYEES' STATEMENT OF FACTS: Retired Electrician F. A. Chappell, hereinafter referred to as the claimant, was employed by the carrier at Paducah, Ky. having more than fifteen (15) years of continuous service with the carrier. He retired from the service of the carrier on October 30, 1953, after having performed 204 days of compensated service in 1953. Upon his retirement, he was paid in lieu of his vacation for 1954, which was earned in 1953, in the amount of eighty hours' pay. This additional payment was in lieu of ten days' vacation. Claimant requests an additional forty hours' pay in lieu of the additional five days' vacation set forth in the August 21, 1954, agreement.

This dispute has been handled with the carrier up to and including the highest designated officer to whom such appeals are subject to be made and who has declined to adjust it.

The agreement of April 1, 1935, as Amended, and the vacation agreement of December 17, 1941, as subsequently amended, are controlling.

POSITION OF EMPLOYEES: The employes submit that Article 8 of the vacation agreement of December 17, 1941, is controlling in this dispute and reads as following:

"No vacation with pay or payment in lieu thereof will be due an employe whose employment relations with a Carrier has terminated prior to the taking of his vacation, except that employes retiring under the provisions of the Railroad Retirement Act shall receive payment for vacation due." (Emphasis ours.)

(g) In instances where employes have performed seven (7) months' service with the employing carrier, or have performed, in a calendar year, service sufficient to qualify them for a vacation in the following calendar year, and subsequently become members of the Armed Forces of the United States, the time spent by such employes in the Armed Forces will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the employing carrier." (Emphasis ours.)

When the carrier representatives agreed to the inclusion of Section 1(g) of Article I — Vacations in the August 21, 1954 agreement, they informed the organization representatives that such inclusion also would involve, so far as non-operating employes were concerned, the discontinuance by individual railroads of the policy whereunder employes returning from the armed forces to railroad service too late in a calendar year to qualify for a vacation in the following year nevertheless would be granted a vacation in the following year as if the qualifying service had been performed.

The above is bona fide evidence that paragraphs (a), (b), and (c) of Article I of the August 21, 1954 agreement became effective with the calendar year 1954 and continues in effect until changed under the terms of the amended Railway Labor Act.

It is the position of this carrier that the claim of the employes is entirely without basis and requests that it be declined without qualification.

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

The carrier or carriers and the employe or employes 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.

Claimant is a retired electrician who was employed by and remained in the service of the carrier for more than fifteen (15) years. He retired on October 31, 1953, in accordance with the provisions of the Railroad Retirement Act. Prior to retiring on October 31, 1953, claimant had qualified for a vacation in 1954 by rendering compensated service in excess of one hundred and thirty-three (133) days in 1953. Upon retirement, claimant was paid the equivalent of ten (10) days' vacation for 1954. The claim is that he is entitled to the equivalent of fifteen (15) days' vacation.

The issue here presented is controlled by Award 2151 (Docket 1954). On the basis of the reasoning of that award, an affirmative award is here required.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of June, 1956.