

The Second Division consisted of the regular members and in addition Referee Irving T. Bergman when award was rendered.

Parties to Dispute: (System Federation No. 42, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement, the Carrier improperly compensated Carman E. P. Allman and H. N. Lively for November 25, 1971, Thanksgiving Day, while they were on vacation.
2. That accordingly, the Carrier be ordered to additionally compensate the aforesaid employees four (4) hours each at straight time rate of pay.

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.

Parties to said dispute waived right of appearance at hearing thereon.

The Thanksgiving Holiday fell on a day during the vacation period of claimants. Part of the force was assigned to work on the holiday and received time and one half pay for the hours worked. Claimants received their regular pay while on vacation and in addition were paid for the holiday. They contend that if they were not on vacation they would have worked on the holiday at overtime rate of pay and they should be no worse off because they were on vacation.

Carrier had the right to blank the holiday. This was apparent from the notice posted, dated November 11, that: "Account Thursday, November 25, 1971, being observed as legal holiday, only such forces as are necessary will work on that date." Only ten of twenty regularly assigned carmen worked on the holiday although all would have worked if it were not a holiday. No protest or claim was filed by the Organization to either the notice or the failure of ten carmen to have work assigned to them on the holiday.

Carrier has maintained from the beginning that holiday overtime is not assigned overtime. That employes are not assigned by bulletin or agreement to work on holidays when holidays fall on a work day of their work week.

The Petitioner has presented no evidence whatsoever to support its contention that:

"Further, the Carrier at Sanford, Florida, by practice, has filled all positions seven day assignments on holidays with the regularly assigned occupant of such position. Had the claimants not been on vacation, they would have worked their regularly assigned positions on the holiday and they would have been compensated eight (8) hours holiday pay and eight (8) hours time and one-half for working the holiday."

The Petitioner cites no contract provision, no bulletins or instructions of any kind or any other evidence in support of its contention. It is well settled that the burden is upon the Petitioner to prove all essential elements of its claim. See Second Division Awards: 5169, 5291, 5300, 5309, 5340, 5481, 5534, 5577, 5882, 6122, and 6369.

This Board has consistently denied claims of this nature arising under Article 7(a) of the National Vacation Agreement when the Petitioner has failed to show that holiday work was assigned work, and it was worked from an overtime board. See Second Division Awards: 2212, 2339, 2571, 2663, 3017, 3018, 3284, 3551, 3557, 3563, 3866, 5283, 4504, and 5903.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of July, 1974.