

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: (System Federation No. 16 (formerly System Federation No. 23)
(Railway Employees' Department
((Carmen)
(
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That the Carrier violated the October 7, 1971 National Agreement when they failed to grant Carman Apprentice J. R. Wazlavek a vacation in the year 1973, at Brewster, Ohio.
2. That the Carrier be ordered to compensate Carman Apprentice J. R. Wazlavek for ten (10) days vacation pay at time and one-half the apprentice's applicable 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.

Claimant J. R. Wazlavek entered Carrier's employ as a carman apprentice on December 1, 1969 at Brewster, Ohio. In July 1970 Claimant was placed in furlough status and at that time was drafted into military service. Immediately upon his honorable discharge from the service on November 1, 1972 Claimant returned to work for Carrier. There is no showing in the record to refute Petitioner's assertion that but for the military draft Claimant was ready willing and able to return to service of the Carrier upon recall from his furlough status.

In 1973 Carrier refused to grant Claimant a vacation on the grounds that he had not qualified under the provisions of Article III, Section 1 of the October 7, 1971 Agreement in mediation case number A-9049. The instant claim was filed on April 24, 1973 and was handled without resolution on the property

The above facts present an identical issue to that decided by us in Award 6967. The discussion and reasoning therein are applicable and controlling

equally in this case. We shall sustain the claim.

A W A R D

Claim sustained.

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 5th day of December, 1975.