

Award No. 1930

Docket No. 1817

2-Pull-EW-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the Pullman Company improperly paid off their employes at the Streamliner Yards on February 12, 1954, instead of on February 11, 1954, the proper pay day.

2. That accordingly the Pullman Company be ordered to compensate Electricians C. DuClos, F. Degnan, B. Pitts and W. Hallis in the amount of two hours and forty minutes pay at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: February 13, 1954, was the designated calendar time for pay day at the Streamliner Yards, Chicago, Illinois; however, since February 13 fell on a Saturday, which is an established bank holiday, the carrier advised the employes verbally that pay day would be held on February 12, 1954.

The Pullman Company paid its employes on February 12, 1954, (Lincoln's Birthday) which is a bank holiday.

Electricians C. DuClos, F. Degnan, B. Pitts and W. Hallis (hereinafter referred to as the claimants) off on one of their rest days on February 12, 1954, were required to make the trip to the Streamliner Yards to get their checks.

The dispute was handled with company officials designated to handle such affairs, who all declined to adjust the dispute.

The agreement effective July 1, 1948, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the carrier in the instant dispute violated the provision of the current agreement when they failed to pay the employes at the Streamliner Yards on February 11, 1954, when the regular pay day which was February 13, and February 12, 1954, the day prior thereto, fell on bank holidays, as Rule 18 reads as follows:

outside bulletined hours will be paid for at the rate of time and one-half until relieved, except as may be provided in the rules hereinafter set out. This sentence clearly is not applicable to this dispute in that the company did not assign or require employees to perform work for the company outside bulletined hours. The second sentence provides that service performed by an employe on his rest days, except where days off may be accumulated under paragraph 3 of Section (i) of Rule 21, and service performed on the following legal holidays; namely, New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day (provided when any of the above holidays fall on Sunday, the day observed by the State, Nation or by proclamation shall be considered the holiday), shall be paid for at the rate of time and one-half. It should be noted that the legal holidays recognized by the organization and by the company and specifically listed in Rule 24 do not include February 12, which date is not a legal holiday as that term is used in the agreement between The Pullman Company and its electrical workers. In this connection, see Foreman Welt's letter of decision, dated March 22, 1954, in which he pointed out that Saturday, February 13, is not an established bank holiday in that many banks in Chicago and the surrounding area remain open on Saturday and, further, that February 12 is not a legal holiday listed in Rule 24 of the agreement or a full bank holiday inasmuch as all banks are not required to close on that day.

It is the position of the company that the organization's arguments are without merit. As previously pointed out, no rule of the agreement required the company to pay its employees prior to the regular pay day (February 13, 1954); either on February 12 or on February 11. Further, the organization's request that the employees involved be paid 2:40 hours at the rate of time and one-half is apparently improperly based upon **Rule 33. Calls**, which rule is not pertinent to this dispute in that none of the employees was "notified or called to perform service" or "required to report for service." Any action which the employees took was unrelated to company business and on their own responsibility. If these employees had so requested, their checks would have been mailed to them. Apparently, however, the employees in question preferred, for some reason or other, to call at the office for their checks, instead of having the company mail them to their place of residence. It cannot properly be held that in receiving their pay checks on their day of rest such action constituted service at the demand or in the service of the carrier and as such is compensable under the cited rule. See Third Division Award 5696. Additionally, the Board's attention is called to the inconsistency of the organization's position in this dispute in that it asserts that Electricians Degnan and Pitts, whose rest days fell on February 11 and 12, should have been paid on February 11.

CONCLUSION

In this ex parte submission the company has shown that no rule of the agreement required the company to issue pay checks to Electricians DuClos, Degnan, Pitts and Hallis, February 11, 1954. Additionally, the company has shown that under the facts of this case, no rule of the agreement required the company to issue pay checks to the above-named electricians prior to the date regular semi-monthly checks are issued to electrical workers in the Chicago Northern District. Further, the company has shown that the rules cited by the organization, Rules 17 and 18, and the remaining pertinent rules of the agreement, with particular reference to Rules 24 and 33, support management's position.

The claim of the organization in behalf of Electricians DuClos et al is without merit and should be denied.

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.

This claim involved the same issue raised in Docket No. 1816 determined by Award No. 1929, and is controlled by that award.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of May, 1955.