

Award No. 2156
Docket No. 1999
2-CMStP&P-MA-'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. 76, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Machinists)**

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Vacation Agreement retired Machinists Al Prior, Edw. Ossman, Al. Wallwitz, Art Gross, Frank Cauley, Ed. Douglas and retired Machinist Helpers Tony Matous and George Gardner have been improperly denied payment in lieu of an additional five days of vacation due them in the year 1954.

2. That accordingly the Carrier be ordered to additionally compensate the aforesaid retired employes in the amount of forty (40) hours' pay in lieu of their additional five (5) days of vacation in the year 1954.

EMPLOYEES' STATEMENT OF FACTS: The above named retired machinists and machinist helpers (hereinafter referred to as the claimants) was employed by the carrier as such, having more than fifteen (15) years of continuous service with the carrier. The claimants retired from the service of the carrier in the year 1953, after having performed more than 133 days of compensated service in the year 1953. Upon retirement, the claimants were paid in lieu of their vacation for 1954, which was earned in 1953, in the amount of eighty hours' pay. This payment was in lieu of ten days' vacation. Claimants request an additional forty hours' pay in lieu of the additional five days' vacation provided for in the August 21, 1954 agreement.

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

The agreement effective September 1, 1949, as amended, and the vacation agreement of December 17, 1941, as subsequently amended, are controlling.

have presented here, to have the agreement declared retroactive to a date prior to January 1, 1954.

Article I, Section 1 (c) of the agreement of August 21, 1954, to which the employees make reference and upon which they rely, was not effective until January 1, 1954. The claimants retired as of July 16, 1953 and September 1, 1953. They were paid all the vacation allowance due them at the time of their retirement. They were not employees of the carrier at any time on or after the provisions of Article I, Section 1 (c) of the agreement of August 21, 1954 became effective. Had the parties to the agreement of August 21, 1954 intended that the provisions of Article I, Section 1 (c) apply to employees retiring prior to January 1, 1954 it would have been an easy matter for such a provision to have been written into the agreement.

There is no support for the claim for a third week's vacation payment under the circumstances prevailing and the carrier respectfully requests that the claim 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 employee or employees involved in this dispute are respectively carrier and employee 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.

Claimants are retired machinists and machinist helpers having more than fifteen (15) years of continuous service with the carrier and having performed more than one hundred and thirty-three (133) days of compensated service in 1953 before they retired. Each retired during the calendar year 1953. Upon retirement, claimants were paid the equivalent of ten (10) days' vacation for 1954. The claim is that they are entitled to the equivalent of fifteen (15) days' vacation.

The issue here present is controlled by our 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.