

Award No. 2467
Docket No. 2241
2-CofGa-CM-'57

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Carl R. Schedler when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 26, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)

CENTRAL OF GEORGIA RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the controlling agreements, Carman A. L. Brown was improperly denied Holiday Pay on Thanksgiving Day, November 25, 1954 although compensation paid by the Carrier was credited to the work days immediately preceding and following said holiday.

2. That accordingly, the Carrier be ordered to make Carman A. L. Brown whole by compensating him at the applicable rate of pay for said holiday.

EMPLOYEES' STATEMENT OF FACTS: Carman A. L. Brown, hereinafter referred to as the claimant, was not paid holiday pay for Thanksgiving Day, November 25, 1954, in his holiday back-time pay check which was delivered to him by the carrier on January 14, 1955.

The claimant was used to fill temporarily the job of Planing Mill Foreman W. C. Watson from November 22 to November 30, 1954. He worked the last work day prior to and the first work day subsequent to the holiday, November 25, 1954.

This dispute has been handled in accordance with the provisions of the agreement effective September 1, 1949, as subsequently amended, with the proper officers of the carrier, including the highest designated carrier officer, with whom such matters may be handled, with the result that this officer has declined to make a satisfactory adjustment of this dispute.

POSITION OF EMPLOYEES: It is submitted that the claimant was assigned to fill the job in question temporarily in accordance with the rights accruing to shop craft employees under the current agreement, with particular reference to Rule 32, which reads as follows:

"Should an employe be assigned temporarily to fill the place of a foreman, he will be paid his own rate—straight time for straight

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.

By letter dated March 1, 1955 and received by the carrier on March 2, 1955, the organization requested certain pay for the claimant. The carrier contends the claim is barred because the letter was received on the 61st day while the rule for filing such claims provides that they must be filed within 60 days from the date of the occurrence. We find as a fact that the claimant was not aware of any probable violation until he received his check from the carrier on January 14, 1955. The grievance was discovered at that time, and was not likely to be discovered earlier than that date. (It is our view that the grievance occurred when it was discovered.) Consequently, we find that 48 days elapsed between the time the claim occurred and it was filed, and that is properly before this Board for adjudication.

The issue in this case is whether under Rule 32 of the Shop Crafts' Agreement the claimant was properly paid.

Rule 32 provides:

"Should an employe be assigned temporarily to fill the place of a foreman, he will be paid his own rate—straight time for straight time hours and overtime rate for overtime hours—if greater than the foreman's rate; if it is not, he will get the foreman's rate. Said positions shall be filled only by mechanics of the respective craft in their departments."

The claimant relieved the regular assigned foreman from November 22 through November 30, 1954. During this period the claimant was the acting foreman and did the foreman's work. He received foreman's pay. Foremen are not paid for holidays as such. Thanksgiving Day was November 25, 1954. The claimant asserts he should receive holiday pay as a carman for that day. For the entire week, both before and after the holiday, the claimant worked as a foreman and was paid at the foreman's rate of pay. We find nothing in the agreement indicating that a worker upgraded to a foreman's position is entitled to holiday pay.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 5th day of June, 1957.