

Award No. 2800
Docket No. 2578
2-P&LE-TWUOA-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**TRANSPORT WORKERS UNION OF AMERICA,
AFL-CIO (Railroad Division)**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
AND THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That it is in violation of the vacation agreement and the holiday agreement to require employees to take a vacation when a holiday falls in this period and only pay the employees five (5) days pay for this period when the employees are entitled to six (6) days pay for the period.

That the Carrier compensate the employees properly who are involved in these claims.

That the holidays involved in these claims are New Year's Day and Washington's Birthday.

EMPLOYEES' STATEMENT OF FACTS: That M. Feczak, P. McMahon, S. Puskar, V. Safranek, J. Brungard, R. Bobchak, J. Petrunick, M. Sevic, and A. Stecko are employees of the carrier and are the employees who were required to take a vacation in the period which involves New Year's Day.

That J. Strashkulic, J. Dombrowski, M. Rosko, R. Shahay, P. Leschak, J. Jacko, A. Stecko and J. Tauschman are employees of the Carrier and are the employees who were required to take a vacation in the period which involves Washington's Birthday.

The carrier did not properly compensate these employees for their vacation period as these employees only received five (5) days pay instead of a six (6) days pay.

That according to the agreement with the carrier these employees were entitled to six (6) days 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.

The parties to said dispute were given due notice of hearing thereon.

Claim is here made in behalf of some seventy-four (74) named employes for an added day's pay, pro rata rate, for holidays which arose during the said employes' regularly scheduled vacation period.

The confronting holiday rule is not what is commonly known as the "standard" holiday provision that was placed in most agreements after the August 21, 1954 agreement.

The holidays involved are New Year's Day and Washington's Birthday. It is contended that the respondent erred when payment for five (5) days was made during those vacation periods when one of the above-named holidays occurred. This contention is based on the proposition that inasmuch as the vacation and holiday rules are separate and independent of each other, payment should have been made for each of the five (5) workdays in the weekly vacation period, together with another day's pay for any holiday falling within such five (5) day period.

This provision, Article V, Rule 38, was placed in the current agreement on January 18, 1956. As far as this dispute is concerned, Section 3 of Article V provides:

"When, during an employee's vacation period, any of the holidays enumerated in Section 1 of this Article, or the day observed, falls on what would be a workday of an employee's regularly assigned work week, such day shall be considered as a workday of the period for which the employee is entitled to vacation and shall be counted as a vacation day."

It is here noted that the above quoted provision is identical with the same section of the August 21, 1954 agreement with the exception of the phrase "**and shall be counted as a vacation day.**" We are of the opinion that the intent of this section, particularly when considered in light of the above quoted phrase, was to provide that when a holiday occurred on what would ordinarily have been a workday of a work week, such holiday was to be considered as a workday of the period of the vacation week and was to be compensated for as such.

We are of the further opinion that the proper application of this rule provides for five (5) days' vacation pay during those vacation periods when a holiday occurs on a workday of such regularly assigned work week.

For the reasons stated these claims lack merit.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 6th day of March, 1958.