

Award No. 3000
Docket No. 2770
2-PULL-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1—That the carrier violated the current agreement when they:

- a) Improperly furloughed 23 employees listed in appeals on dates listed therein;
- b) Failed to recall these employees in seniority order.

2—That accordingly, the carrier be ordered to compensate the 23 employees in the amounts specified at the rates of pay set forth in the appeal dated July 17, 1956.

EMPLOYEES' STATEMENT OF FACTS: Notices were posted dated December 23, 1955, furloughing painters and cleaners effective December 25, 1955, at Oakland, California, copies of which are submitted herewith as Exhibit A and Exhibit B.

At some time subsequent to the posting of the aforementioned notices, the following employees were recalled to service on the dates after their names and did work:

Painter	8—W. Vickery	December 25, 1955
Cleaner	50—P. Balls	December 25, 1955
Cleaner	51—C. M. Johnson	December 25, 1955
Cleaner	52—F. M. Sanders	December 25, 1955
Cleaner	53—Van, R.	December 25, 1955
Cleaner	54—M. Jamison	December 25, 1955
Cleaner	55—B. Lay	December 25, 1955

the company's possession do not indicate that Stubbs was called for emergency work on December 25 as alleged. Further, company records show that Stubbs was on furlough December 25 and 26 and that no payment is due.

CONCLUSION

In this ex parte submission the company has shown that Article IV of the November 2, 1954 Agreement is controlling and that no rule of the agreement between The Pullman Company and its carmen was violated when, effective December 25, 1955, the company furloughed certain employees (car cleaners, painters and carmen) in the San Francisco District. Also, the company has shown that no employee is due an adjustment and that all employees have been properly paid.

The claim of the organization 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 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.

The factual situation and basic issue in this case is the same as that involved in our Awards Nos. 2701 and 2702, so they govern disposition of the claim that the employees were improperly furloughed by notice under Article IV of the Agreement of November 2, 1954.

The situation here is different from those cases in that the furlough notices effective December 25, 1955, were cancelled for some cleaners and made effective on December 26 because of the consolidation of two California Zephyrs on the 25th. Claim was made on behalf of ten furloughed cleaners who were senior to those who so worked. Their claim for eight hours' pay for December 25 is valid.

Claim is also made for shift change premium under Rule 13 for Carman M. Sanders who was assigned to another position on the 25th and 26th and then returned to his former position on the 27th. The Company has allowed such pay for the shift change on December 25 but not for the 27th, due to an alleged agreement with the local committee to return all employees to their original positions after the emergency furlough ended. The local committee deny making such an agreement, and in any event it has no authority to change the rules in the agreement. Accordingly, Carman Sanders' claim for shift change premium is valid.

AWARD

Claim sustained to the extent stated in the findings and otherwise denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: H. J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of November, 1958.