

**Award No. 3102**

**Docket No. 2735**

**2-MP-MA-'59**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L.-C. I. O. (Machinists)**

**MISSOURI PACIFIC RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That under the controlling agreement the Carrier did not properly compensate Machinist George O. McManus for Thanksgiving Day, November 22, 1956.

2. That the Carrier be ordered to properly apply the Agreement and compensate Machinist George McManus for November 22, 1956, (Thanksgiving Day) for eight (8) hours at pro rata rate of pay.

**EMPLOYEES' STATEMENT OF FACTS:** Machinist George O. McManus, hereinafter referred to as the claimant, was regularly employed at Coffeyville, Kansas, as machinist with assignment Friday through Tuesday, rest days Wednesday and Thursday.

On November 22, 1956, claimant worked in place of Machinist T. W. Donnel. Mr. Donnel was regularly assigned machinist who had a work week of Monday through Friday, rest days Saturday and Sunday, thus the Thanksgiving holiday fell on what would have been a work day of Mr. Donnel's position on which Mr. McManus was working during such period. Machinist T. W. Donnel was absent from his position, relieving General Foreman Lip-ton.

**POSITION OF EMPLOYEES:** It is the position of the employees that the claimant worked on November 22, 1956, a holiday, and was paid the time and one-half rate, however, he is entitled to an additional eight (8) hours holiday pay at the pro rata rate as provided for by the August 21, 1954 Agreement. The applicable part of the agreement provides, quote:

In conclusion, the carrier states that this claim should be declined because:

1. the claim is not supported by the agreement, and
2. Award 2298 should not be followed because the decision exceeds the authority granted to your Board by law.

If your Board should reject the argument advanced above and sustain the claim, then the decision of your Board should make it clear that the holiday pay is due only when the holiday falls on a workday of the position on which the regularly assigned employee may be working and no other, and that the rate for the holiday pay can not exceed the rate of the position to which the employee is regularly assigned. The carrier is still convinced that this claim should be denied in spite of Award 2298, but, if the claim is sustained, then certainly the carrier is entitled to the protection requested from harrasing claims.

**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.

Claimant McManus had a regular assignment which did not work Thursdays. On Thanksgiving Day, Thursday, November 22, 1956, he was on the job working currently in place of another machinist, whose schedule included Thursdays. For the work he performed he was paid time and one-half. Claim is now advanced for an additional eight hours on the theory that he was required to work on a holiday occurring on one of his rest days.

During the progress of the claim on the property, the organization cited and relied upon Second Division Award No. 2298 (Referee Carter) which sustained a claim for a carman who worked Christmas day, while currently filling in for a vacationing employe whose regular assignment had a rest day (Saturday) which fell on Christmas. In effect, the award holds that he took the conditions of the job he was currently filling.

The final sentence of the award states "a regularly assigned employe is entitled to the 8 hours holiday pay whether he is working his regular assignment or whether he is working a temporary assignment whose work week contains a holiday".

In harmony with Referee Carter's findings concerning the intent of the holiday agreement to provide constant pay for the employes, we are of the opinion that where a regularly assigned employe is transferred by the Company to another assignment, he thereupon becomes subject to the conditions of the temporary assignment. If he works on a holiday he is entitled to be paid according to the rule.

His right to holiday pay should be based on the job he is filling and not on the job he has vacated. It follows that the scheduling of the regular as-

signed job he has temporarily vacated should not be a factor to be considered in determining his right to holiday pay.

**AWARD**

The claim is sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **SECOND DIVISION**

**ATTEST: Harry J. Sassaman**  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of February, 1959.