

Award No. 3857

Docket No. 3624

2-WT-CM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 106, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

THE WASHINGTON TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(a) That under the current agreements the Carrier improperly denied Car Inspector P. W. Williamson, the Car Inspectors rate of pay for "Holiday," July 4, 1958.

(b) That accordingly, the Carrier be ordered to compensate the aforesaid Car Inspector the prevailing differential at pro rata rate for eight hours service, from that of Carman Helpers rate.

EMPLOYEES' STATEMENT OF FACTS: Car Inspector P. W. Williamson, hereinafter referred to as the claimant, was and is regularly employed by the Washington Terminal Company, hereinafter referred to as the carrier, in the capacity of a carman or carman helper as the case may be consistent with the seniority provisions of the controlling agreement.

On June 16, 1958, carrier posted bulletin No. 94 advertising a temporary vacancy for a car repairman to work in the place of R. Samuel, whom the carrier had granted leave of absence. Claimant was assigned to this temporary vacancy pending the bulletining of the position and assignment of the successful applicant.

This action resulted in a succession of temporary vacancies which are listed as follows:

Carman T. Middleton, a senior carman placed a bid for job No. 35 bulletin No. 94 and was awarded that position to be effective June 30, 1958 as shown on award sheet dated June 23, 1958.

On June 30, 1958 the claimant was assigned to the vacancy of T. Middleton shown on bulletin No. 97 dated June 23, 1958.

Carman J. Winston, a senior carman placed a bid for job No. 6 bulletin

The following awards sustain this conclusion: Awards 2052, 2169, 2170, 2171, 2172, Second Division; Awards 7430, 7431, 7432, Third Division.

AWARD

Claim denied."

Second Division Awards 2052, 2170, 2171, 2172, 2256, 2281, 2563, 2604, 2612 and 2696, and other awards too numerous to mention, have affirmed this principle.

In view of the above, the carrier submits that the claim of the employees 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 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.

Parties to said dispute were given due notice of hearing thereon.

Claimant was serving as a car inspector immediately preceding and following the July 4th holiday, but was paid for that day at the carman helper's rate on the ground that he was not made a regular car inspector until July 12th. The claim is for the difference between the two rates. The sole issue on the property was whether he was entitled to holiday pay at the higher rate. c

Section 1 of Article II of the Agreement of August 21, 1954, provides holiday pay at the regular rate "of the position to which assigned for each of the following enumerated holidays," including the Fourth of July. 1

Having been assigned to work as a car inspector on the immediately preceding and following workdays, and thus having qualified under Section 3 of Article II of that Agreement, his holiday pay should have been at the rate of that position. 2

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November, 1961.