



Award No. 5107

Docket No. 4238

2-IC-BK-'67

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Paul C. Dugan when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Blacksmiths)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement rules, the Carrier made reduction in forces and did not compensate the furloughed employes for holidays.

2. That accordingly the Carrier be ordered to compensate Blacksmith Helpers R. D. Cantrell, R. R. Russell, C. H. Schuback, J. H. Bateman, and Jack Harvey, eight (8) hours each at their applicable rate of pay for December 26, 1960 and January 2, 1961.

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 waived right of appearance at hearing thereon.

This Christmas Day, December 26, 1960, and New Year's Day, January 2, 1961, holiday pay dispute involves two issues: (1) did Claimants, with the exception of Claimant Harvey, have compensation for service paid him by the Carrier credited to 11 or more of the 30 calendar days immediately preceding the New Year's Day holiday, celebrated on January 2, 1961; did Claimant Harvey have the necessary compensation for service paid him by the Carrier credited to 11 or more of the 30 calendar days immediately preceding both Christmas Day and New Year's Day holidays, and (2) were Claimants, with the exception of Claimant Harvey, "available for service"

on the workday preceding and the workday following the New Year's Day holiday, celebrated on January 2, 1961.

The Organization argues that Claimants herein were "regularly assigned" employees and thus the provisions of the 2nd paragraph of Section 1 of Article III of the '60 Agreement do not apply to them. This Board has decided in previous 3rd Division awards 14515, 14625, 14635 and 15017, that furloughed employees, whose lay-off period extends beyond the holidays, are considered as "other than regularly assigned" employees, and therefore we must reject the Organization's contention that said Paragraph 2, Section 1, Article III of '60 Agreement does not apply to Claimants in the instant claim.

In regard to Claimants herein, with the exception of Claimant Harvey, inasmuch as they did not have compensation for service paid them by the Carrier credited to 11 or more of the 30 calendar days immediately preceding the New Year's Day holiday, celebrated on January 2, 1961, their claim for said New Year's Day holiday pay will be denied. As to Claimant Harvey, inasmuch as he failed to receive compensation for service paid him by the Carrier credited to 11 or more of the 30 calendar days immediately preceding the Christmas Day and New Year's Day holidays, his claim for holiday pay for both these days will be denied.

Carrier has raised the "availability" issue in regard to the Claimants for any holiday pay and this issue was discussed and decided by this Division in Award 5105, and for the reasons stated in that award, we will sustain the claims of Claimants, excluding Claimant Harvey, for the holiday pay for Christmas Day, celebrated on December 26, 1960.

AWARD

(1) Claim denied as to Claimant Harvey for Christmas Day holiday pay for December 26, 1960, as well as holiday pay for New Year's Day for January 2, 1961.

(2) Claim denied as to all other Claimants in regard to New Year's Day holiday pay for January 2, 1961.

(3) Claim sustained as to all other Claimants (excluding Claimant Harvey), for Christmas Day holiday pay for December 26, 1960.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March, 1967.

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