

Award No. 5267
Docket No. 5173
2-SP(PL)-MA-'67

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Machinists)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYES:

1. That in accordance with applicable Agreements and provisions thereof, the Carrier be ordered to additionally compensate Machinist L. G. Griffith (hereinafter referred to as claimant), in the amount of eight (8) hours at the time and one-half rate for service rendered on September 6, 1956 — the Labor Day Holiday — which was also claimant's birthday, a holiday consistent with provisions of the Agreement dated February 4, 1965.

EMPLOYES' STATEMENT OF FACTS: Claimant is a regularly assigned Machinist at Carrier's West Oakland Diesel Shop, with a bulletin assigned workweek of Saturday thru Wednesday, including holidays, with rest days of Thursday and Friday.

Claimant worked his regular assigned position on Monday, September 6, 1965, the Labor Day Holiday, which was also claimant's birthday.

The record discloses that Carrier as evidenced by Employees' Exhibit A, accepted the fact that two (2) bonafide holidays — the Labor Day Holiday, September 6, 1965, and claimant's birthday holiday — had occurred on the same date, September 6, 1965, consistent with claimant's bulletin assigned workweek, in that claimant received eight (8) hours compensation at the pro rata rate for each of the two holidays involved — the Labor Day Holiday and claimant's birthday holiday — during the same single work period.

Claimant was also compensated eight (8) hours at the time and one-half rate for service rendered on the Labor Day Holiday, September 6, 1965, under the provisions of Rule 6(a) of the current Working Rules Agreement; but was denied the additional payment of eight (8) hours compensation at time and one-half rate for service rendered on his birthday holiday, which occurred on the same date as the legal holiday, and which he was contractually entitled to receive under applicable provisions of Article II, Section 6, of the Agreement dated February 4, 1965.

Under applicable provisions of Agreements referred to above claimant was entitled to receive forty (40) hours compensation at the pro rata rate.

CONCLUSION: Carrier asserts the instant claim is entirely lacking in agreement or other support and requests that it be denied.

All data herein have been presented to the duly authorized representative of the employees and are made a part of this particular question in dispute.

Carrier does not desire oral hearing unless requested by Petitioner.

(Exhibits not reproduced.)

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.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was required to work eight hours on Labor Day, which was not only a holiday but also his birthday. He received eight hours pay for the holiday, as well as a like amount for his birthday and eight hours pay at the time and one-half rate for working on that day.

Petitioner contends that claimant is entitled to another payment at the time and one-half rate since he performed work on both his birthday and the Holiday. We disagree. The parties plainly anticipated this specific situation in Article II Section 6(f) of their February 4, 1965, Agreement, which provides that "If an employee's birthday falls on one of the seven holidays named in Article III of the Agreement of August 19, 1960, he may, by giving reasonable notice to his supervisor, have the following day or the day immediately preceding the first day during which he is not scheduled to work following such holiday considered as his birthday for the purposes of this Section."

Claimant did not exercise his option to celebrate his birthday on a date other than Labor Day and there is no sound basis here for awarding duplicate payments for the same eight hours work.

In line with Award 5218 and the many awards cited therein that have passed upon precisely the same issue and rules as are now before us, the present claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 13th day of October 1967.

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