

Award No. 5571
Docket No. 5375
2-N&W-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the terms of the current agreement, carrier improperly denied Claimant birthday holiday compensation which fell during his assigned vacation period. (Listed below)

Helper Carman Ruben Potter for eight (8) hours additional pay for March 27, 1965.

2. That accordingly, the carrier be ordered to compensate the aforesaid employe eight (8) hours at the straight time rate as birthday holiday compensation.

EMPLOYEES' STATEMENT OF FACTS: The aforesaid employe, hereinafter referred to as the Claimant, was regularly employed by the Norfolk and Western Railway Company, hereinafter referred to as the Carrier, as a Helper Carman at Portsmouth, Ohio.

Claimant's birthday fell on a vacation day of his vacation period, for which he was paid a day's vacation pay. However, Carrier failed to allow him birthday holiday compensation.

Claim was filed with proper officer of the Carrier under date, contending that claimant was entitled to eight (8) hours' Birthday Holiday compensation for his birthday Holiday, in addition to vacation pay received for that day, and subsequently handled up to and including the highest officer of the Carrier designated to handle such claims, all of whom declined to make satisfactory adjustment. Copy of all correspondence exchanged attached and shown as Exhibit A.

The Agreement effective September 1, 1949 as subsequently amended is controlling.

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 of hearing thereon.

The fundamental issue in this case is the same as that considered in Award 5468, which arose out of a like dispute under the corresponding provisions of a similar Agreement. Accordingly, we find our Award 5468 controlling in this case, despite variations in dates, parties, name and locations, which do not warrant repetitive discussion.

AWARD

Claim is denied.

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

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 14th day of November, 1968.