



Award No. 5752

Docket No. 5517

2-N&W-MA '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

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

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.

G. W. Hooper, Jr.—Machinists
Roanoke East End Shops—Roanoke, Virginia
Birthday November 3, 1965

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

EMPLOYEES' STATEMENT OF FACTS: The aforesaid employee, hereinafter referred to as the Claimant, is regularly employed by the Norfolk & Western Railway Company hereinafter referred to as the Carrier as Machinist at Roanoke East End Shops.

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 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.

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

will reveal that the position taken by Carrier is fully confirmed and the Employees' position is fully denied.

(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 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.

Claimant herein was a regularly assigned Machinist in Carrier's Roanoke Shops, Roanoke, Virginia. His working assignment was Monday through Friday, first shift, rest days Saturday and Sunday. He was scheduled for and observed his paid vacation November 1 through November 5, 1965. His birthday, Wednesday, November 3, would have been a regularly assigned work day for him if he had not been scheduled off for his earned vacation with pay as provided in the applicable Vacation Agreement.

Claimant was compensated for the assigned work days Monday through Friday of his regularly assigned work-week during his scheduled vacation at the pro rata rate of pay. His claim for an additional 8-hour day at the pro rata rate as premium pay for his birthday-holiday was denied by Carrier.

The dispute is from the same property, involves the same rules of agreement between the same parties, without any material distinction in facts, and presents the precise issue which was before the Division in Docket No. 5516, this day decided by sustaining Award No. 5751. Accordingly, our findings in Award No. 5751 have the same meaning, application, and effect and, therefore, are controlling in this Docket.

A W A R D

Claim (1) sustained;
Claim (2) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1969.