

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr., when award was rendered.

Parties to Dispute: (United Steelworkers of America
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(The Lake Terminal Railroad Company

Dispute: Claim of Employees:

- (1) That the Carrier unjustly, arbitrarily, and with no contractual basis ordered Car Repairman, L. Tollet, to leave work at approximately 4:00 P.M. on December 31, 1975, thus causing him to lose a day's pay on that day and also compensation for January 1, 1976, which is a paid holiday.
- (2) That, accordingly, the Carrier be ordered to compensate Mr. Tollet as penalty for that action, eight (8) hours pay at the Car Repairman's rate for December 31, 1975 and January 1, 1976, in addition to all other earnings.

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.

The Claimant reported for work approximately one-half hour late and was denied the opportunity to work for the remainder of his work shift. The Organization claims he was improperly denied the opportunity to work.

Rule 23(a), cited by the Organization, is not applicable here in that the Carrier did not annul or cancel a work assignment, there being no reason to believe that the Claimant would have been refused work had he reported for his full shift.

Further, Rule 3, Section 1(c) is not supportive of the Organization's position. This section reads:

"Employees reporting for work later than their regular starting time will be paid only for actual time worked."

This rule directs the method of payment for less than a full shift, but cannot be construed to compel the Carrier to permit employees to work a partial shift under any circumstances.

More relevant is Rule 22, which reads as follows:

"Any employee who reports for work at his regular starting time, and who has not been notified on the day before, or before leaving home for his place of employment on the day involved, that his services will not be required shall be given a minimum of four (4) hours work or be paid for four (4) hours work at his regular hourly rate." (Emphasis Added)

This rule clearly envisages the right of the Carrier to find that an employee's services "will not be required" in a given day. It calls for a penalty of four hours' pay or work for an employee "who reports for work at his regular starting time".

In the present case, the Claimant did not report for work at his regular starting time and thus has no claim for pay (which, in any case would be four hours, not more).

The Board finds no basis for the Organization's theory that the Carrier's refusal to permit the Claimant to work was a form of discipline.

Under the collective bargaining agreement and under the rules cited, the Board finds no bar to the action taken by the Carrier. Award No. 4150 (Johnson) is in point here.

Since the result is that the Claimant did not work on December 31, it follows under the terms of the collective bargaining agreement, that he is not entitled to pay for January 1, a holiday.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of September, 1977.