

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

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(Burlington Northern Inc.

Dispute: Claim of Employees:

1. That in violation of the current agreement, Burlington Northern Inc., unjustly withheld Crew Lineman David A. Loomis, from service on July 6, 1976. By so withholding Crew Lineman David A. Loomis from service on July 6, 1976, Burlington Northern Inc., forced additional loss of pay for date of July 5, 1976, which was the actual day of observance for the July 4, 1976 holiday.
2. That accordingly, Burlington Northern Inc., be ordered to compensate Crew Lineman David A. Loomis for the five (5) hours for which he was available, but not allowed to work on July 6, 1976, and in addition, that Burlington Northern Inc., be further ordered to compensate Crew Lineman David A. Loomis for eight (8) hours pay for the forced loss of the July 5, 1976 paid holiday.

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 employees 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 was a member of a crew working the vicinity of Ellsberry, Missouri over an extended period of time. The crew was not scheduled for the weekend of Independence Day, 1976 (July 4 falling on Sunday and being celebrated on Monday, July 5). Claimant reported back to work three hours after his assigned starting time on July 6 and was not permitted to work the remaining five hours. Since he was not compensated for work on July 6, he was not paid holiday pay for the July 5 holiday.

The Organization argues that claimant should have been permitted to work for the five hours of his July 6 shift to which he presented himself, relying on the provisions of Rule 16, Absence from Work, which reads as follows:

"In case an employee is unavoidably kept from work he will not be discriminated against. An employee detained from work on account of sickness or for other good cause shall notify his immediate supervisor as early as possible."

Claimant alleges that on July 2, 1976, before completing work that day, he told "the man in charge at the time" that he would be "2 or 3 hours late" on July 6 and further requested that the foreman be so informed on July 6. The record shows no contradiction that this occurred; no reason for such tardiness, however, other than presumably travel from home, was mentioned. On the property, the Carrier submitted a statement from the Supervisor, Field Construction that all members of the crew had been advised "prior to July 4th weekend if they were late reporting to work they would not be permitted to work any portion of that day." On the property, there was no contention by the claimant or the Organization that the crew members had not been so advised.

Rule 16 is not of assistance to the claimant in this instance. There was no serious argument to substantiate that the claimant was "unavoidably" absent, nor was there any "good cause" established. As stated in Award No. 7754 (Scearce):

"...(J)ust as the agreement applies a test of reasonableness and cooperation upon management, it also requires that the employee truly have good and sufficient reasons for their request. A short unexplained request based upon 'personal business' does not meet the test..."

Nor is the test met simply by an explanation concerning travel time from home.

With this as factual background for the event in question, the Board finds, as in previous awards, that the Carrier is not required by any rule to permit an employee to work a portion of a shift -- at least not in the absence of advance approval for tardiness or a serious question of unavoidable absence, neither of which conditions is applicable here.

It follows that if the Carrier was within its right to withhold work from the claimant on July 5, and thus not pay him compensation for the day, then the claimant is not eligible for holiday pay for July 5, under Appendix D, Section 3, which reads in part:

"A regularly assigned employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid him by the carrier is credited in the workdays immediately preceding and following such holiday..."

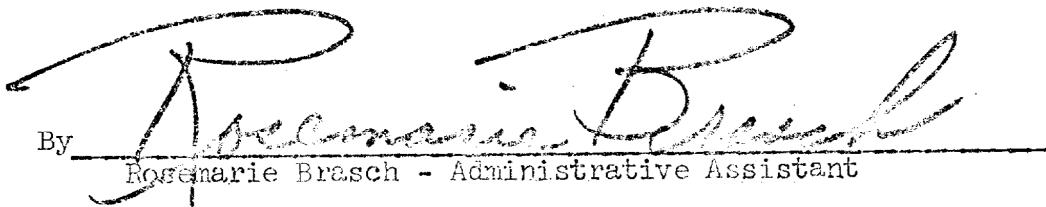
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of February, 1979.