

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States and Canada  
{  
{ Detroit and Toledo Shore Line Railroad Company

Dispute: Claim of Employees:

1. That the Detroit and Toledo Shore Line Railroad Company violated Rule 4 (a) (c) of the controlling Agreement, revised and effective January 1, 1959, and Article III, Section 3, of the August 19, 1960 National Agreement.
2. That The Detroit and Toledo Shore Line Railroad Company violated Rule 19 (a) 1 of the controlling Agreement, revised and effective January 1, 1959, during the processing of the claim on the property.
3. That The Detroit and Toledo Shore Line Railroad Company be ordered to compensate Carman J. Rose eight (8) hours straight time for February 20, 1978.

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 and 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 is employed as a carman at carrier's Toledo train yards from 8:00 a.m. to 4:00 p.m., Monday through Friday, with Saturday and Sunday as rest days. Claimant was scheduled to work on Washington's Birthday, Monday, February 20, 1978. He reported off that day. Carrier subsequently refused to pay him the straight time holiday pay authorized by Rule 4(a)(c) and Article III, Section 3, of the 1960 national agreement.

It is unrefuted that claimant worked the day before and the day after the holiday. The organization claims that this is all that is required to receive the holiday pay.

Rule 4(a) states that employes will receive eight hours pay for enumerated holidays. Washington's Birthday is one of these authorized holidays. There is

no dispute on that point. Rule 4(c) states that employes shall qualify for holiday pay, if they are compensated for work on the day before and the day after a holiday. There is also no question that claimant met these requirements.

Article III, Section 3, of the 1960 national agreement further clarifies what constitutes the day before a holiday and the day after for variously assigned employees.

In handling this case on the property, the parties have accused each other of procedural violations. If the board were persuaded by the organization's argument that carrier did not give a reason for its denial of the claim, or if we were to deny the claim as not timely appealed, as asserted by carrier, the case would be decided on a procedural basis. A careful review of the record, however, persuades this board that all procedural arguments presented by both sides must fail.

From the record before us or a review of schedule agreement Rule 19, the board cannot construe claimant's time card, as submitted for holiday pay, to be a claim or a grievance as contemplated by Rule 19. (See, for example, Award No. 6256.) We, therefore, consider the organization letter of April 17, 1978, as the initiation of the claim involved here. Consequently, all appeals were filed in a timely manner and this case must be decided on its merits.

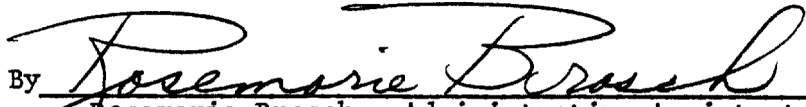
Rule 4(a) and 4(c) of the agreement state that the enumerated holidays will be paid at straight time rates. In order to qualify for this payment, an employee must be compensated for time worked the day before and the day after the holiday. Claimant met this work requirement. While he did not work as scheduled on the holiday and carrier considers this a dereliction of duty, we find no requirement in the agreement that claimant must work the holiday because he was scheduled to in order to receive the holiday pay. This board has interpreted this holiday pay article on a number of occasions and has stated in previous awards (for example, Award 6474) that the only condition precedent for payment of the holiday in this instance is that claimant be compensated for work on the day before and the day after the holiday. It is undisputed that claimant met this requirement.

A W A R D

Claim sustained.

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 8th day of October, 1980.