

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Chicago, Rock Island and Pacific Railroad Company
(William M. Gibbons, Trustee)

Dispute: Claim of Employees:

1. That under the terms of the applicable agreements, the Carrier improperly denied all qualified employees represented by the Carmen eight (8) hours' Holiday pay for September 3, 1979.

2. That, accordingly, the Carrier be ordered to compensate all employees of the Chicago, Rock Island and Pacific Railroad represented by the Carmen's Organization for eight (8) hours' pay for September 3, 1979.

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 employees 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 were given due notice of hearing thereon.

Following a strike on August 28, 1979 by another Organization, the Carrier abolished all shopcraft positions, including those of the Claimants, on the same day. Claimants were not granted holiday pay for Labor Day, September 3, 1979. The Organization argues that this is in violation of Article II, Holidays, Section 1 (c) of the September 2, 1969 Agreement, which reads as follows:

"(c) Subject to the applicable qualifying requirements in Section 3 hereof, other than regularly assigned employees shall be eligible for the paid holidays or pay in lieu thereof provided for in paragraph (b) above, provided (1) compensation for service paid him by the carrier is credited to 11 or more of the 30 calendar days immediately preceding the holiday and (2) he has had a seniority date for at least 60 calendar days or has 60 calendar days of continuous active service preceding the holiday beginning with the first day of compensated service provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, non-compliance with a union shop agreement, or disapproval of application for employment."

The Carrier argues that the Claimants are not entitled to holiday pay for a variety of reasons. In addition, the Carrier argues that this matter is not properly before the Board because of the legal status of the Carrier making "the Carmen's agreement, together with all other labor organization agreements ... inapplicable insofar as the Rock Island estate was and still is concerned".

The merits of the dispute as well as the jurisdictional issue raised by the Carrier have been reviewed in two recent Third Division Awards involving the same Carrier and two other Organizations. These Awards -- Award No. 24504 (Lieberman) and Award No. 24505 (C. R. Sickles) -- find that the Board has jurisdiction and that the claims should be sustained.

Award Nos. 8970 (LaRocco), 9204 (Briggs) and 9314 (Mikrut), concerning other issues, also determine that the Board has jurisdiction to resolve the disputes despite the legal status of the Carrier.

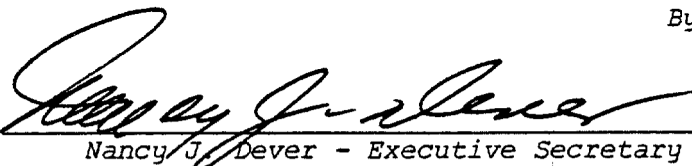
Following full review of the record in this dispute, the Board finds no reason to differ from the conclusions in the cited awards, both as to the jurisdictional issue and the entitlement of the furloughed employees to holiday pay for September 3, 1979 under the applicable rule.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 18th day of January 1984.