

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(Brotherhood Railway Carmen of the United States and
(Canada

Parties to Dispute: (

(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the August 21, 1954 Section 3, Article II and the December 3, 1975 and the December 11, 1981 National Holiday Agreements, when they refused to pay Carman R. Kress holiday pay for the New Year's Eve and New Year's Day holidays of January 1 and 2, 1984.

2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to compensate Carman R. Kress in the amount of 16 hours pay at the straight time rate for both holidays of January 1 and 2, 1984.

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 employes 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.

In this case, the Claimant would have normally worked on January 1, 1984. However, in accordance with the provisions of the National Holiday Agreement, January 1 and January 2, 1984, were holidays and the Claimant did not work either of those days. The Carrier denied the Claimant eight (8) hours of holiday pay for each of the holidays on the ground that January 1 was the Claimant's regular work day and, because he did not work the day "immediately preceding" the holiday, he could not be paid. Here, the Carrier relied upon Article II, Section 3 of the August 21, 1954, Agreement which stated that:

"An employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid by the Carrier is credited to the workday immediately preceding and following the holiday."

We have reviewed the Carrier's procedural contentions and have concluded, in the particular circumstances relevant to this claim that they lack substance.

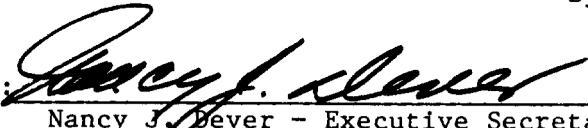
With respect to the merits, January 1, 1984, was an official holiday and, therefore, not a work day. Pursuant to the National Holiday Agreement, the Claimant would not have worked that day under the normal course of events. Accordingly, because he was compensated for time worked immediately preceding January 1, 1984, he qualifies for holiday pay as claimed. (See, among others Second Division Award No. 10683 on this property, dated December 11, 1985).

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 5th day of August 1987.