Form 1 **NATIONAL RAILROAD ADJUSTMENT BOARD**
SECOND DIVISION

Award No. 14164
Docket No. 14019
16-2-NRAB-00002-140056

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen-Division of TCU/IAMAW
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(The BNSF Railway Company

STATEMENT OF CLAIM:

"1. That the Burlington Northern Santa Fe violated the terms of the February 1, 2006 Agreement, specifically Rules 4, 8, 22 and Appendix D, when on September 3, 2010 the Carrier posted a notice reducing the work force on September 6 for the Labor Day holiday, which was a regularly assigned work day for the Claimant, Carman Apprentice Bryan Lelepali.

2. That accordingly, the Carrier be ordered to compensate the Claimant eight (8) hours pay at the holiday rate, credit him one (1) day towards his apprenticeship, one (1) day toward his vacation qualifying and all other entitlement benefits as provided by the Agreement."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

The instant claim is filed on behalf of Claimant Brian Lelepali, who in September 2010 was regularly assigned as a non-upgraded apprentice at the Carrier's Denver, Colorado facilities. The parties have agreed that the claim on behalf of employee Lelepali is a lead case for resolving other pending claims on behalf of other non-upgraded apprentices.

The relevant facts are not in dispute. On September 3, 2010, the Carrier posted a notice advising employees that all Carmen and Upgraded Apprentices would work their assigned shifts on the Labor Day holiday, September 6, 2010. The Claimant and the other non-upgraded apprentices, on the other hand, were informed that they would not work the Labor Day holiday. All of the Carmen and Upgraded Apprentices worked the Labor Day holiday. None of the non-upgraded apprentices worked the holiday, although they all – including the Claimant – received eight hours of straight-time holiday pay for the day. The record indicates that all employees resumed their normal work schedules immediately after the holiday.

The Organization contends that the failure of the Carrier to work the non-upgraded apprentices on September 6, 2010 constituted a one-day workforce reduction that did not comply with the Agreement. The Organization relies on Rule 22 ("Reducing Hours of Force") of the Agreement, paragraph (b) which provides, "Not less than five (5) days' notice will be given before forces are reduced."

However, Rule 22(a) states that, "when one or more holidays occur in the assignment of an employee's work week, the work hours for that assignment will be reduced by eight hours for each holiday except for those employees who are given four calendar days' advance notice that they will work." Thus, by the express terms of the Agreement, employees are not scheduled to work on a holiday unless the Carrier notifies them that they will work the holiday. The Agreement thus makes clear that the failure of the Carrier to schedule and work any employees on a holiday is not a workforce reduction or reduction of hours under Rule 22(b). It is the normal course of events under Rule 22(a), unless the Carrier acts affirmatively to notify the employees that they are scheduled to work the holiday.

In the instant claim, the Carrier notified the Carmen and Upgraded Apprentices that they would work on the 2010 Labor Day holiday, while the non-upgraded apprentices were notified that they would not work. It is the conclusion of this Board that those notifications by the Carrier more than fulfilled the Agreement. In fact, it would appear that the Carrier was not required by the Agreement to notify the non-upgraded apprentices, or any other employees, that they would not work the holiday, since Rule 22(a) provides that no employees will work a holiday unless they are properly notified that they are scheduled to work.

Accordingly, the Board cannot find that the Carrier violated the Agreement, as alleged, by not scheduling the Claimant to work on the Labor Day holiday, September 6, 2010. Consequently, the instant Claim must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 20th day of December 2016.