

Award No. 1593
Docket No. 1502
2-ART-CM-'52

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when award was rendered.

PARTIES TO DISPUTE:

**BROTHERHOOD RAILWAY CARMEN OF AMERICA
RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.**

AMERICAN REFRIGERATOR TRANSIT COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Carman C. J. Ogle was unjustly dealt with when the Carrier declined to count Saturday, August 11, 1951 as a vacation day and compensate him for such day at the time and one-half rate.

2. That accordingly the Carrier be ordered to:

a) Count Saturday, August 11, 1951 as a vacation day.

b) Additionally compensate the aforesaid carman in the amount of eight hours pay for Saturday, August 11, 1951, at the time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: At St. Louis, Missouri, the American Refrigerator Transit Company, hereafter referred to as the carrier, maintains a shop where refrigerator cars are rebuilt and repaired. Carman C. J. Ogle, hereinafter referred to as the claimant, was employed by the carrier at St. Louis, Missouri, on August 4, 1936, and was regularly assigned from 8:00 A. M. to 12:00 noon, and from 12:30 P. M. to 4:30 P. M. and has remained continuously in the service of the carrier. The carrier elected in the year 1951 to grant all employees the same period for their annual vacation with the exception that it was necessary to keep a number of employees during this vacation period to perform certain work which was necessary. The claimant was one of the employees who was required to perform work during the mass vacation period and his vacation date was set for Monday, August 6, 1951, for ten (10) consecutive work days. On August 9, 1951, the carrier by bulletin assigned all shop employees to work on each Saturday until further notice, a copy of which is submitted herewith and identified as Exhibit A.

The claimant reported for work at 8:00 A. M., the morning of Friday, August 17, 1951, after completing his ten (10) consecutive work days, counting Saturday, August 11, 1951, which the claimant would have been entitled to work if not on vacation. The carrier would not allow August 11, 1951 to

The Carrier contends the ten days paid vacation received by C. J. Ogle was in accord with the provisions of the vacation agreements and that there is nothing further due him and respectfully requests your Honorable Board to so find.

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 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.

The parties to said dispute were given due notice of hearing thereon.

Claimant was assigned as a carman, Monday through Friday each week, in carrier's shop at St. Louis, Missouri. Claimant was entitled to ten consecutive work days as a vacation period with pay. The commencement of his vacation was set for Monday, August 6, 1951. On August 9, 1951, carrier posted a notice that all shop employes were to work on Saturdays until further notice. Claimant contends that under these circumstances, his vacation period ended on Thursday, August 16, 1951 and that he should have been permitted to work on Friday, August 17, 1951.

Under the rule, claimant was entitled to ten consecutive work days as a vacation period with pay. This simply means that he will have ten consecutively assigned work days. In other words, claimant's vacation period was such that he was relieved from work with pay on August 6 through August 10 and August 13 through August 17. The fact that notice was given that overtime work would be performed in the shops on Saturday, August 11 and subsequent Saturdays until further notice, was not a controlling factor. It could become pertinent only if his bulletined assignment was changed which in the instant case it was not. In other words, the vacation period and the payment made during the time thereof is determined by the employe's bulletined assignment and not by exigencies that may arise during its duration. See Awards 3996, 4003, 4032, 4090, 4238, Third Division. Under this situation, Saturday, August 11, was no part of claimant's regular assignment and should not be counted as a vacation day. Consequently, the carrier correctly determined that Friday, August 17, 1951, was claimant's 10th vacation day.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1952.