

**Award No. 2012
Docket No. 1875
2-BRE-CM-'55**

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when the award was rendered.

PARTIES TO DISPUTE:

**RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.
(Brotherhood Railway Carmen of America)**

BURLINGTON REFRIGERATOR EXPRESS COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1) That under the provisions of the current agreement, Carman C. L. Knieke qualified for ten (10) days' vacation based on the performance of his duties as a carman during the year 1952.

2) That accordingly, the Carrier be ordered to make payment of the vacation allowance earned by the aforementioned claimant.

EMPLOYEES' STATEMENT OF FACTS: Carman C. L. Knieke was employed by the Burlington Refrigerator Express Company at Plattsmouth, Nebraska and had 21 years of service when he retired November 14, 1952, under the provisions of the Railroad Retirement Act.

During the year 1952, retired Carman C. L. Knieke worked the required number of days to qualify him for a vacation in the year 1953 or payment in lieu thereof.

Although Carman Knieke's vacation was schedule and posted to begin May 1, 1953, the carrier has declined to pay him the vacation allowance due.

This dispute has been handled in accordance with the provisions of the current agreement effective July 1, 1945 and subsequently amended up to and including the highest carrier officer to whom such matters are subject to be appealed without any satisfactory adjustment thereof.

POSITION OF EMPLOYEES: It is submitted that under the provisions of Rule 42(a) of the agreement effective July 1, 1945 as revised effective September 1, 1949 and reading:

"Effective with the year 1950 each employee covered by this agreement who has rendered compensated service with the Company of not less than 151 days in the year 1949 will be granted an annual vacation of 5 consecutive work days with pay; thereafter

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.

This case is essentially the same as that covered by our Award No. 2011 (Docket No. 1874), except that in the instant case the claim is made on behalf of a retired employe, not deceased.

For the reasons set forth in our Findings in Award No. 2011 (Docket No. 1874), the instant claim should be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of November, 1955.