

Award No. 2237
Docket No. 2105
2-NYC&StL-BM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 57, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Boilermakers)**

**THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That in accordance with the applicable agreements the Carrier be ordered to compensate Anthony Vendetti, retired Boilermaker, five (5) additional days vacation pay.

EMPLOYEES' STATEMENT OF FACTS: Anthony Vendetti, hereinafter referred to as the claimant, was employed by the New York, Chicago and St. Louis Railroad Company (Nickel Plate Road), hereinafter referred to as the carrier, as a boilermaker at Conneaut, Ohio. Claimant has been in the continuous employment of the carrier from January 1, 1925, until he retired on August 1, 1953, in accordance with the provisions of the Railroad Retirement Act.

Prior to retiring on August 1, 1953, the claimant had qualified for a vacation in the year 1954 by rendering compensated service of not less than one hundred thirty-three (133) days during the preceding calendar year of 1953.

Upon retiring claimant was paid by the carrier in an amount of money equivalent to ten (10) days vacation in January, 1954.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result that he has declined to adjust it.

The agreement effective October 1, 1952, as it has been subsequently amended, is controlling.

POSITION OF EMPLOYEES: The employes submit and contend that Article 8 of the Vacation Agreement of December 17, 1941, is controlling, which for ready reference reads:

"No vacation with pay or payment in lieu thereof will be due an employe whose employment relation with a Carrier has ter-

retired before January 1, 1954, and was not an employe covered by Article I, Section 1 (c) of the August 21, 1954 Agreement.

The only vacation payment due claimant was by virtue of the exception contained in Article 8 of the vacation agreement which preserved to him the ten days' vacation earned up to the time of his termination of employment relationship under the agreement then in effect. That payment has been allowed.

Therefore, the carrier submits that Article I, Section 1 (c) of the August 21, 1954 agreement was not applicable to claimant and that he was properly compensated for ten days' vacation pay under the agreement and supplements thereto effective at the time of his retirement on July 31, 1953.

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 waived right of appearance at hearing thereon.

This claim is made on behalf of retired Boilermaker Anthony Vendetti. Claimant retired under the provisions of the Railroad Retirement Act as of August 1, 1953, but, before doing so, rendered at least one hundred and thirty-three (133) days of compensated service in 1953. He also had at least fifteen (15) years of continuous service with the carrier. In view thereof carrier paid claimant for ten (10) days of service in lieu of the vacation which he had earned for 1954. This, it is claimed, was improper for the reason that Article I, Section 1 (c) of the National Agreement of August 21, 1954, which made certain changes in the Vacation Agreement, required that carrier pay claimant for fifteen (15) days of service in lieu of his vacation for 1954.

This claim presents the identical situation as was involved in Docket 1988 on which our Award 2231 is based. What we said and held in Award 2231 is applicable here. In view thereof we find the 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 17th day of September, 1956.