

Award No. 2324

Docket No. 2264

2-Pull-CM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That under the current agreement, Painter J. Roble was improperly prevented from reporting for service at 9:30 A. M., C.S.T. on May 31, 1955.

That accordingly the Carrier be ordered to compensate Painter J. Roble in the amount of (8) hours at straight time rate of pay for May 30 (Decoration Day) 1955, and for seven (7) hours at straight time rate of pay for May 31, 1955.

EMPLOYEES' STATEMENT OF FACTS: Painter J. Roble, hereinafter referred to as the claimant, had regular assignment at the carrier's N.Y.C., Root Street Yard, Chicago, Illinois, 9:00 A. M. to 5:30 P. M. C.S.T., Monday thru Friday respectively.

On May 31, 1955, at 9:30 A. M., C.S.T., Painter J. Roble telephoned the carriers' foreman at the carriers' N.Y.C., Root Street Yard, Chicago, Illinois, that he would be late reporting for work as he had been unavoidably detained on account of personal business; that he was ready and would report to work. It was not possible for Painter Roble to telephone the foreman before 9:00 A. M. on May 31, 1955. The foreman, however, denied Painter J. Roble permission to report for work then to complete the balance of his regular work day.

Painter J. Roble worked on Monday, May 30 (Decoration Day), 1955—a Holiday. In being denied by the foreman to report to work the balance of the day on Tuesday, May 31, 1955, Painter Roble lost eight (8) hours holiday pay for Decoration Day, May 30, 1955 and seven (7) hours pay for May 31, 1955.

This dispute has been handled in accordance with the provisions of the controlling agreement, up to and including the highest designated carrier officer to whom such matters may be appealed, with the result that the Officer has declined to adjust this dispute.

The agreement, effective June 16, 1951, as subsequently amended, is controlling.

Undoubtedly, Roble did not on May 31, when he belatedly informed management of his whereabouts consider the implications of his failure to report for his scheduled work day following Decoration Day, a "paid holiday." Employees receive pay for holidays only in the event they receive compensation for the immediately preceding and immediately following day. Since Roble received no compensation for May 31, he was not entitled to be paid for May 30. To argue, however, that Roble's failure to receive pay for May 31 can be attributed to any other cause than his own negligence and lack of foresight is to ignore the fact that he absented himself from work.

CONCLUSION

In his ex parte submission, the company has shown that on May 31, 1955, Painter Roble failed to report for work at his scheduled reporting time and failed to report later on May 31. Instead of reporting for work or stating he could not report, he asked whether he still might report. The company has shown Roble's action possibly may be explained by the fact he realized somewhat belatedly on May 31 that he would not receive holiday pay for May 30 unless he worked on May 31.

The organization's request that Roble be paid 8:00 hours' holiday pay for May 30 and 7:00 hours for May 31 is without merit and should be denied.

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 regularly assigned at carrier's Root Street Yard, Chicago, Illinois, as a painter, 9:00 A. M. to 5:30 P. M., Monday through Friday. On May 31, 1955, at 9:30 A. M., he telephoned his foreman that he had been unavoidably detained on account of personal business. He states that the foreman denied him the right to work and he claims compensation for the time lost as a result thereof. The carrier's version is that claimant called the foreman at 10:30 A. M., advised the foreman that he had been detained with personal business and asked if he could report late for work.

The record does not disclose that claimant's statements were untrue or that the foreman made any inquiries about the nature of claimant's personal business. The foreman had no information that justified him in directing claimant not to report in accordance with Rule 30 which provides:

"In case an employe is unavoidably kept from work he shall not be discriminated against. An employe detained from work on account of sickness, or for any other good cause, shall notify his superior in advance if possible or as early as practicable."

There is no evidence in the record that claimant did not comply with the rule or that the foreman had any evidence that claimant's statements were untrue. Claimant was entitled to work the balance of his assignment and the carrier was in error in denying him that right. Claimant did not act unreasonably in complying with the foreman's direction that he should not report for work.

We think carrier's record that claimant called at 10:30 A. M. should be accepted over claimant's recollection that he called in at 9:30 A. M. Claimant will be allowed compensation for 6½ hours on May 31, 1955, and 8 hours holiday pay lost on May 30, 1955.

AWARD

Claim sustained per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1956.