

Award No. 2521

Docket No. 2336

2-IC-CM-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT A. F. of L.-C. I. O. (Carmen)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the Carrier violated the current agreement when they did not allow Car Inspectors W. E. Hulett and Eugene Hulett to work their assignment on Saturday, December 25, 1954, and A. C. Hill and R. A. Conrad, on Saturday, January 1, 1955, at Fort Dodge, Iowa.

2. That in consideration therefor the Carrier be ordered to compensate these employes for eight (8) hours at the time and one-half rate at the prevailing hourly rate of pay for those dates.

EMPLOYEE'S STATEMENT OF FACTS: The Illinois Central Railroad Company, hereinafter called the carrier, made the election at Fort Dodge, Iowa, to regularly create and designate in the train yard a work week of 40 hours consisting of 5 days of 8 hours each with 2 consecutive days off in each 7. The consist of the force, the hours of shifts, the days of work and the off days were specified and which are specifically set forth in the copy of memorandum identified as Exhibit A submitted herewith.

Nevertheless, the carrier ultimately elected to arbitrarily deprive Car Inspectors W. E. Hulett and E. R. Hulett of working one of their regularly stipulated 5 days of work, namely Saturday, December 25, 1954 and the carrier likewise imposed the same loss of earnings upon Car Inspector Claimants A. C. Hill and R. A. Conrad, involving Saturday, January 1, 1955. This is in spite of the fact that each of said Saturdays were not scheduled as days off for such claimants and which is affirmed by Exhibit A.

This dispute has been handled with the carrier up to and including the highest officer designated thereby to handle such disputes with the consequence that said officer has declined to adjust it.

POSITION OF EMPLOYEES: It is submitted, on the basis of the facts above referred to, that these claimants possessed a work week of 40 hours consisting of 5 days of 8 hours each with 2 consecutive days off in each 7 under the provisions of paragraph (A) of Rule 1, sub-paragraph (a) of Rule 1, para-

tion. Claimants each received one day's pay at straight time for the holiday not worked.

"There is nothing in the agreement which requires the carrier to work regularly assigned employees on holidays when their services are not needed.

"The purpose of the holiday rule was to give a regularly assigned employee a holiday without a loss of take-home pay. Such was realized here."

CONCLUSION

In conclusion, the carrier submits that

1) There is not and never has been a "guarantee" in the agreement with the organization here involved which prohibits the carrier from blanking positions on holidays.

2) That the Forty-Hour Week Agreement and interpretations thereto definitely provided that no "guarantees" were established by that agreement where none existed previously.

3) That the practice on this carrier and the industry in general has been to reduce forces on holidays to meet reduced operational service requirements.

4) That the organization's request here is at variance with the understanding which has prevailed in the industry as recognized throughout the years by the parties and as evidenced in their handling of such matters on a national basis.

5) That Article II—Holidays of the agreement and memorandum of August 21, 1954, imposed no "guarantee" to work employees where such "guarantee" had not previously existed.

6) That Award 1444 is not applicable to this dispute, was erroneous to begin with, has not been followed in later disputes, and has been superseded by later awards on this and other divisions of the Adjustment Board.

7) That later awards, particularly Awards 1606 and 2070, clearly support the carrier's action in this dispute, and that the carrier's action here is in strict accordance with the principle enunciated, not only in those awards cited above, but numerous others which have been referred to and made part hereof.

As there has been no violation of the agreement and no basis for the organization's claim, the carrier requests that a denial award be issued.

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.

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

Disposition of this claim is governed by our Award No. 2520, Docket No. 2280.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of June, 1957.

DISSENT OF LABOR MEMBERS TO AWARDS NOS. 2520 AND 2521

The finding of the majority to the effect that there are no rules or agreement provisions which justify a reversal of Award No. 1606 is not in accord with the facts.

Rule 1 (a) of the current agreement requires that "a work week of 40 hours shall consist of five days of eight hours each" and the Forty Hour Week Agreement by its very title is a guarantee of forty hours work per week for the employes governed thereby.

The instant Holidays came within the regularly assigned forty hour week of the claimants and by refusing to work the claimants on such Holidays the carrier deprived them of part of their regularly assigned work week. The majority findings ignore the carrier's duty under the terms of the agreement to work on such Holidays employes assigned to work-weeks that include such Holidays.

The schedule agreement, as amended September 1, 1949, recognizes and preserves the rules, rate of pay, and working conditions of the claimants and stands as a protest against a repetition of the error in Award No. 1606.

R. W. Blake
Charles E. Goodlin
T. E. Losey
Edward W. Wiesner
James B. Zink