

Award No. 2578
Docket No. 2339
2-BA&P-MA-'57

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Curtis G. Shake when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 76, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Machinists)**

BUTTE, ANACONDA & PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the applicable agreements the Carrier improperly denied Machinist William Mason compensation for the May 30, 1955, Decoration Day Holiday.

2. That, accordingly, the Carrier be ordered to compensate Machinist William Mason in the amount of eight (8) hours at the pro rata hourly rate of pay for the aforesaid holiday.

EMPLOYEES' STATEMENT OF FACTS: William Mason, hereinafter referred to as the claimant, was employed by the Butte, Anaconda and Pacific Railway Company, hereinafter referred to as the carrier, as a machinist at Anaconda, Montana, on May 17, 1955.

The claimant was regularly assigned to the 7:00 A.M. to 4:00 P.M. shift, Monday through Friday, rest days Saturday and Sunday. Decoration Day, May 30, 1955, fell on Monday, a work day of claimant's assigned work week.

The claimant worked the assigned work days of his work week immediately preceding and following the holidays, see copy of letter submitted herewith and identified as Exhibit A, dated June 20, 1955, addressed to Superintendent W. F. Conroy by the Local Chairman H. E. Levensgood and H. C. Munro.

The carrier under date of June 23, 1955, copy of this letter submitted herewith and identified as Exhibit B, advised the local chairmen that it was the carrier's understanding that it was necessary for an employe to have an employment relationship of thirty (30) days or more in order to qualify for holiday compensation.

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

2. Since Mr. Mason was hired first as an extra machinist and not filling a bulletined assignment, he could not be considered "regularly assigned" as required by the National Agreement.

3. Since the national agreement was rather indefinite and vague in specifically stating the number of qualifying days to be used for purposes of applying the Paid Holiday provision, such as we already have in effect for the various vacation agreements, the carrier felt that it was being fair in adopting the thirty-day service requirement for new employes in order to qualify for the paid holiday.

Therefore, the carrier respectfully submits the foregoing evidence for the consideration of the Board and requests a favorable decision on the strength of the facts in the case itself and its desire to be fair and impartial to all employes in the service of the railroad.

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 the dispute were given due notice of hearing thereon.

Section 1 of Article II of the Agreement of August 21, 1954, provides that, "each regularly assigned hourly and daily rated employe shall receive eight hours' pay at the pro rata hourly rate of the position to which assigned for (Decoration Day) when such holiday falls on a workday of the workweek of the individual employe."

Claimant was employed as a machinist on May 17, 1955. His assignment ran from Monday through Friday, with Saturday and Sunday as rest days. Decoration Day, 1955, fell on Monday, May 30, and claimant demanded holiday pay for said day.

The carrier denied the claim for two reasons:

1. "Since Mr. Mason was hired first as an extra machinist and not filling a bulletined assignment, he could not be considered 'regularly assigned' as required by the National Agreement."

2. Since the national agreement was rather indefinite and vague in specifically stating the number of qualifying days to be used for purposes of applying the paid holiday provision, such as we already have in effect for the various vacation agreements, the carrier felt that it was being fair in adopting the thirty-day requirement for new employees in order to qualify for the paid holiday."

Carrier says that it "does not bulletin any machinist assignments with the exception of several locomotive inspector jobs and the necessary relief attaching to these positions. All other machinists are first hired on an extra basis to fill vacancies of men leaving the service, and their tenure of duty is governed strictly by the requirements of the carrier's service." While the position occu-

plied by the claimant was not bulletined, we think he was, nevertheless, a regular fulltime employe, since he was not used to fill a temporary vacancy or to handle relief work. We have no hesitancy whatever in saying that on this showing the claimant was "regularly assigned," within the meaning of the Agreement of August 21, 1954, and worked the work days immediately preceding and next following the holiday.

As to point 2, above, we think it sufficient to observe that nowhere in the Agreement do we find any requirement that an employe must be in service for thirty days to qualify for holiday pay.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of July, 1957.