

Award No. 2612
Docket No. 2462
2-P&LE,LE&E-CIO-'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:

**RAILROAD DIVISION, TRANSPORT WORKERS UNION
OF AMERICA, AFL-CIO**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

That it is in violation of the agreement or practice to have an employe fill a regular assigned position from February 20, 1956 through February 25, 1956, inclusive, and yet pay this employe as if he was filling this position as an extra employe.

That Mr. William Sowa filled a regular assignment during this period and there was a holiday (Washington's Birthday), in this period and that Mr. William Sowa was entitled to be paid according to the Holiday Agreement for this day.

EMPLOYEES' STATEMENT OF FACTS: Mr. William Sowa was an extra car inspector.

That Mr. William Sowa was assigned to a regular assignment by the carrier from February 20, 1956 through February 25, 1956, inclusive.

That Washington's Birthday was one of the days worked by Mr. William Sowa.

That Mr. William Sowa was paid improperly for Washington's Birthday, a day he worked as he only received time and one half ($1\frac{1}{2}$) pay for this day, yet under the contract he was entitled to two and one half ($2\frac{1}{2}$) times pay for the day.

That Mr. William Sowa is an employe of the carrier.

That the Railroad Division, Transport Workers Union of America, AFL-CIO has a collective bargaining agreement effective May 1, 1948, revised

The carrier, therefore, submits that your Board should deny the claim.

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.

Claimant is a car inspector. Immediately prior to February 21, 1956, there was no work available for him and his name was on the extra list. On said date he was called to fill a car inspector's position which was vacant on account of being advertised for bids. Claimant filled the position from February 21 to 25, inclusive, including February 22, which was Washington's Birthday. For February 22 he was paid at the time and one-half rate in accordance with Rule 3 (f) of the Carmen's Agreement.

The demand is that claimant be paid additionally at the pro-rata rate for Washington's Birthday. The organization contends that since he filled a regular position from February 21 to 25, he was a regularly assigned employe within the meaning of Holiday Rule, even though he was on the extra list when called.

Disposition of the claim depends upon whether claimant's status during the period involved was that of a regularly assigned employe or that of an extra employe called to fill a vacancy.

Various aspects of this controversy have heretofore been before this Board. Award 2299 is on all fours with the present claim. Although it was accompanied by a vigorous dissent, we feel that, in the interest of consistency, we should follow that Award. We conclude therefore, that on February 22, 1956, the claimant was temporarily filling the position pending the expiration of the bulletin and the assignment of the successful bidder, and that he was not a regularly assigned employe within the meaning of the Holiday Rule.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 11th day of September, 1957.