

Award No. 2999
Docket No. 2741
2-MKT-CM-'58

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. 8, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Carmen)

MISSOURI-KANSAS-TEXAS RAILROAD CO.

MISSOURI-KANSAS-TEXAS RAILROAD CO. OF TEXAS

DISPUTE: CLAIM OF EMPLOYES:

1. That under the controlling agreements the Carrier improperly denied Carman Helper C. F. McVeigh eight (8) hours' pay at the pro rata rate for the Christmas Day Holiday, December 25, 1956.
2. That, accordingly, the Carrier be ordered to compensate the aforesaid Carman Helper in the amount of eight (8) hours at the pro rata rate for the aforementioned holiday.

EMPLOYES' STATEMENT OF FACTS: Carman Helper C. F. McVeigh, hereinafter referred to as the claimant, is employed by the Missouri-Kansas-Texas Railroad Company of Texas, hereinafter referred to as the carrier, at Ray Car Department, Denison, Texas. Claimant was regularly assigned to the 7:00 A.M. to 3:00 P.M. shift, Thursday through Monday, with Tuesday and Wednesday as rest days.

On November 25, 1956, the carrier posted Bulletin No. 271, copy submitted herewith and identified as Exhibit 1, advertising a temporary vacancy for a carman helper on the 7:00 A.M. to 3:00 P.M. shift, Saturday through Wednesday, with Thursday and Friday as rest days.

The claimant did bid on the advertised position and on December 3, 1956, the carrier posted Bulletin No. 271-A, copy submitted herewith and identified as Exhibit 1 (a), assigning claimant to the temporary vacant position.

The claimant did work the assigned work week of the temporarily vacant position of Saturday, December 22, 1956, through Wednesday, December 26, 1956, which included the Christmas Day Holiday, December 25, 1956.

"Claimants also cited Section 3 of Article II in support of their claims. Since Section 3 does not come into play unless the employees are covered by Section 1, it has no bearing upon our decision in this case."

See also Awards Nos. 2299, Docket 2166; 2169; 2297, Docket 2113; 2300, Docket 2122; 2331, Docket 2221; 2332, Docket 2222; 2170; 2301, Docket 2245; 2281, Docket 2149; 2254, Docket 2192; 2171; 2172; and 2173, Second Division, National Railroad Adjustment Board, and Awards Nos. 7721, Docket CL-7788; 7722, Docket CL-7811; 7431, Docket CL-7541; and 7432, Docket CL-7644, Third Division, National Railroad Adjustment Board.

Inasmuch as McVeigh was working extra filling temporarily a temporary vacancy he bid in as a temporary vacancy, he is not entitled to holiday pay under the provisions of Article II—Holidays, Section 1, of the agreement with the Fifteen Cooperating Organizations dated August 21, 1954. The claim is not valid under the rule and must be denied.

Except as herein expressly admitted, the Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas, and each of them, deny each and every, all and singular, the allegations of the organization and employees in alleged unadjusted dispute, claim or grievance.

For each and all of the foregoing reasons, the Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas, and each of them, respectfully request the Second Division, National Railroad Adjustment Board, deny said claim, and grant said railroad companies, and each of them, such other relief to which they may be entitled.

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 this dispute were given due notice of hearing thereon.

The claimant, a regularly assigned employee, bid for and was assigned to a bulletined temporary vacancy in accordance with Rule 13. The fact that it was a temporary vacancy does not alter the character of the assignment under that rule. Our awards holding that unassigned or extra employees holding temporary assignments are not regularly assigned employees, eligible for holiday pay under Section 1 of Article II of the August 21, 1954 Agreement, are not applicable to cases of regular assignment to temporary vacancies.

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AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of November, 1958.