Award No. 3045
Docket No. 2729
2-GN-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Carmen)

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. a) That under the current agreement Car Inspectors Ole J. Holland and George Magaffin and Carmen Helpers Ingemar G. Olson and James F. Wiltze were improperly denied the right to work Thanksgiving Day, November 22, 1956.

b) That under the current agreement Car Inspectors Thomas J. Fox and Steve Actipis and Carmen Helpers Roy Osborne and James F. Wiltze were improperly denied the right to work Christmas Day, December 25, 1956.

c) That under the current agreement Car Inspectors Ole J. Holland and Steven D. Cook and Carmen Helpers Roy Orsborne and Ingemar G. Olson were improperly denied the right to work New ear's Day, January 1, 1957.

2. That accordingly the Carrier be ordered to compensate the aforesaid employes each in the amount of eight (8) hours' pay at the applicable time and one-half rate for the dates set above.

EMPLOYES' STATEMENT OF FACTS: At the Everett Train Yard at Everett, Washington, the carrier on Sundays prior to and after November 22, 1956, December 25, 1956, and January 1, 1957, employed two inspectors and one helper on the first shift, two inspectors and no helpers on the second shift and two inspectors and one helper on the third shift.

On the dates set forth above the carrier reduced the force to one inspector on he first shift, one inspector on the second shift and two inspectors on the third shift.

were identical in principle and which were both **denial awards.** Instead of recognizing these denial awards and being guided by them relative to future claims identical in principle, the shop craft organizations on this property have continued to process identical claims to your Board.

Just recently the electrical workers' organization (System Federation No. 101) representing electrical workers on this property, processed the following claim, which is identical in principle with the instant claim, to the Second Division of the NRAB:

> "1. That under the current agreement Electricians M. A. Lunceford, H. K. Olson and Electrician Helpers A. G. Adams and L. A. Schroyer were improperly denied the right to work Labor Day, September 6, 1954.
>
> "2. That, accordingly, the Carrier be ordered to compensate the aforesaid employes each in the amount of 8 hours pay at the applicable time and one-half rate for September 6, 1954."

In **Award No. 2471,** Second Division of the NRAB, with Referee Schedler, it was stated in the findings:

> "This case is identical with Award No. 2070 (Docket No. 1961) wherein the claim was denied, except in the instant case the classification of workers is different. We find nothing in the record in this case which would justify a different award.
>
> AWARD
>
> "Claim denied."

Since this instant claim of the carmen of this property involves a dispute identical to those contained in Second Division **Awards Nos. 2070, 2097 and 2471** and in which awards **the claims of the employes were denied,** your Board must also find the instant claim of no merit whatsoever and render a denial decision consistent with the decisions of the afore-mentioned Second Division denial awards.

CONCLUSION

In effect, the employes herein are attempting through the medium of your Board to amend the guarantee rule of their agreement by having you hold that a purely oral statement is a new guarantee rule in the agreement, contrary to the provisions of the one now contained. That is beyond the power of this tribunal. The present rules make no requirement relative to any number of employes to be worked on holidays; nor do they specify any restrictions on management as to the number of employes who may or may not be worked on such holidays. Such restrictions cannot be added to the schedule by Board dictate.

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.

Parties to said dispute were given due notice of hearing thereon.

Disposition of this claim is governed by Award No. 3043 (Docket 2424).

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December, 1958.

DISSENT OF LABOR MEMBERS TO AWARDS 3043 TO 3060, INCLUSIVE

The majority states that similar claims against this carrier were sustained on the basis of a verbal understanding that forces would not be reduced on holidays below that worked on Sundays. There is no basis for denying the instant claims on the theory that the verbal understanding between this carrier and System Federation No. 101 was cancelled by the National Agreement of August 21, 1954. In Award 2378 this theory was carefully examined by the referee, former Chairman of the Emergency Board, and it was found that there was no language in the report of Emergency Board No. 106, on which the agreement of August 21, 1954 is premised, or in the agreement itself which would have the effect of setting aside the parties' verbal understanding of 1950 relating to the extent to which carrier will work its forces on a workday of their regularly assigned work week.

Since it was held in Award No. 2378 that it was not the intention of the Emergency Board, nor of the parties signatory to the August 21, 1954 agreement, to abrogate such agreements, "Rather . . . it was intended to keep them in full force and effect," it can readily be seen that there is no basis for the present inconsistent holding. It is evident that Awards 2378 to 2383, inclusive, were correct and should have been adhered to in Awards 3043 to 3060, inclusive.

/s/ James B. Zink

/s/ R. W. Blake

/s/ Charles E. Goodlin

/s/ T. E. Losey

/s/ Edward W. Wiesner