

Award No. 5088

Docket No. 4874

2-SLSF-BK-'67

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Paul C. Dugan when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 22, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Blacksmiths)**

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, the Carrier improperly refused to compensate Blacksmiths Floyd Salsman, H. O. Matherly, George A. Elkins, Bert Stewart and Helpers H. L. Hyde and Ernest I. Weiherer; Boilermakers A. L. Jacobs, Bill Rose, R. Chastain, Lester Ellingsworth and Apprentice E. L. Meadow eight (8) hours at the pro rata rate of pay for December 25, 1963 (Christmas) and January 1, 1964, (New Years Day) and Blacksmiths W. G. Haymes and Apprentice Jerry McQueary eight (8) hours at the pro rata rate of pay for January 1, 1964 (New Years Day).

2. That accordingly, the Carrier be ordered to compensate the above named employes for sixteen (16) and eight (8) hours each, respectively, at the straight time rate of pay.

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.

The issue as to Claimant's "availability for service" as required by the applicable provisions of Article III of '60 Agreement was decided by this Division in Award 5061, and for the reasons stated in that award Carrier's contention that Claimants were not "available for service" is without merit and must be rejected.

Carrier asserts that Claimant Bert Stewart has been paid for the two (2) holidays under claim, which is strongly denied by the Organization. This Board has held on numerous occasions that the burden of proof is on the petitioning party to prove an alleged violation and that said party must prove its claim with competent evidence in support thereof, mere allegations being not sufficient to prove an alleged claim. Carrier did not submit any evidence to substantiate said allegation and therefore said contention must be rejected.

Therefore, inasmuch as Claimants have met the requirements of the pertinent provisions of Article III of the '60 Agreement, this claim must be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March, 1967.

[See Award 5061 for Carrier Members' dissent.]