



Award No. 5098

Docket No. 4197

2-MP-CM-'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. 2, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement thirty-seven (37) carmen; twenty-eight (28) carmen helpers; four (4) carmen apprentices; three (3) painters; one (1) painter apprentice; one (1) upholsterer and two (2) painter helpers were denied compensation by the Missouri Pacific Railroad Company for the New Year's Day holiday, January 2, 1961, Sedalia and De Soto, Missouri and Palestine, Texas.

2. That accordingly the Missouri Pacific Railroad Company be ordered to compensate the employees listed below in the amount of eight (8) hours each at the straight time rate for the New Year's Day holiday, January 2, 1961.

CARMEN

M. E. White
L. F. Johnson
J. H. Martin
C. J. Wissman
R. E. Emery
L. D. Templemire
J. R. Bozcarth
T. W. Kenney
L. Kirkpatrick
C. E. Neece
J. W. Glenn
D. T. Glenn
R. H. Prall
W. W. Garrison
G. H. Handoff
C. R. Walling
W. C. Giles
O. F. Meeck

G. E. Huffman
E. V. Killion
C. J. Marshall
F. Singleton
Charles Baker
Robert J. Guenther
W. H. Spradling
Delmar T. McMullin
Marvin Jinkerson
Lawrence Record
Robert A. Wilson
Shelby Apple
Maurice Boyer
Roy C. Martin
Joseph Craig
Carlos McAnally
Claude Ballard
Clarence Wright
John Martin

CARMEN HELPERS

L. Gehlken	Wm. S. Bayless
E. Gray	J. S. Brown
A. Macial	Gus E. Dean
A. Main	Thomas E. Bequette
M. C. Miller	Donald Walton
J. C. Barrett	Vernon Beck
D. Anzley	Everett Horton
H. E. Fuller	Walter Turner
G. D. Scales	Lloyd Earlywine
L. Little	Chester Pratt
J. S. Swanson	Clement Jones
W. A. Ealom	W. O. Littrell
E. N. Stanaland	Paul R. Barnes
Earl Jamerson	Ralph Wagner

CARMEN APPRENTICES

D. C. Cramer	J. D. Randall
J. Curtis	Richard Maloney

PAINTERS

C. H. Hopkins	Raymond J. Govero	Sterline Phelps
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PAINTER APPRENTICES

Gerald Broombaugh

UPHOLSTERERS

F. E. Sedlak

PAINTER HELPERS

Donald Woods	Francis Oker
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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 employees 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 in this holiday pay dispute as to the question of "availability" under Section 3(ii) of Article III of the '60 Agreement was discussed and decided in Award 5095, and for the reasons stated in that Award, we must conclude that Claimants were "available for service" on the workday following the January 2, 1961 holiday as required by said Section 3(ii) of Article III of the '60 Agreement and as referred to in the "Note" to said Section.

In regard to Claimant, Carman Helper Ralph Wagner, Carrier points out that he was not listed in the claim initially presented on the property and appealed to the Chief Personnel Officer and that Carrier has been unable to identify him or locate where he works. The Organization states that in checking its files, Carman Wagner's name was listed with the Carmen furloughed and written in with pencil and when the Superintendent of Shops at DeSoto, Missouri in declining the claim he did not name the Claimants. Although this Division has on numerous occasions held that a Claimant need not be specifically named so long as he is easily and clearly identifiable, we feel that it was impossible for Carrier in this instance to easily and clearly identify Claimant Wagner inasmuch as he was not named in the list of Claimants initially presented on the property, and therefore Claimant Wagner's claim for holiday pay in this instance must be denied.

As to all the other Claimants, inasmuch as they met the "availability" test within the intent and meaning of Section 3(ii) and "Note" thereunder, of Article III of the '60 Agreement, their claims must be sustained.

AWARD

Claim of Claimant Carman Helper, Ralph Wagner, denied.

Claim of all other Claimants listed in this 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.