



**Award No. 5104
Docket No. 4554
2-N&W-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. 16, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated Article 3 of the August 19, 1960 Agreement effective July 1, 1960 when they failed to compensate Carman Helper T. E. Smith, Jr. for holiday pay of eight (8) hours for January 1, 1962 (New Years Day).

2. That accordingly, the Carrier be ordered to compensate Carman Helper T. E. Smith Jr. eight (8) hours pay for January 1, 1962.

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 issues herein in regard to holiday pay for New Year's Day, January 1, 1962, are twofold: (1) the question of "availability", and (2) whether Claimant met the "compensation for service" on 11 or more of the 30 calendar days immediately preceding the holiday in question.

The facts are that Claimant worked 10 workdays during the "30 calendar days" preceding the holiday and was on vacation from December 18 through December 22, 1961 and from December 25 through December 29, 1961.

The issue as to "vacation pay" being computed as "compensation for service" pay was decided by this Division in Award 5102, and the question of "availability" under Article III, Section 3, of '60 Agreement was decided in Award 5061, and inasmuch as those awards are controlling in the instant case, we will sustain this claim.

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.