

Award No. 5252
Docket No. 5113
2-CSS&SB-EW-'67

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David Dolnick when award was rendered.

PARTIES TO DISPUTE:

RAILWAY EMPLOYES' DEPARTMENT
A. F. of L. - C. I. O. (Electrical Workers)

CHICAGO, SOUTH SHORE AND SOUTH BEND RAILROAD

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Chicago South Shore and South Bend Railroad violated the agreement of February 4, 1965, when it refused to pay birthday-holiday pay to Electrician George Gosnell for his birthday April 28, 1965.

2. That accordingly, the Chicago South Shore and South Bend Railroad be ordered to compensate Electrician George Gosnell in the amount of eight (8) hours at the pro rata rate for April 28, 1965.

EMPLOYEES' STATEMENT OF FACTS: Electrician George Gosnell, hereinafter referred to as the Claimant, was regularly employed by the Chicago South Shore and South Bend Railroad, hereinafter referred to as Carrier, as an Electrician at Old Shops, Michigan City, Indiana, with work week Monday through Friday, rest days Saturday and Sunday.

Claimant took 1965 vacation, April 26 through April 30, 1965, both dates inclusive, returning to service Monday, May 3, 1965. Claimant's birthday was Wednesday April 28th, a vacation day of his vacation period, for which he was paid a day's vacation pay. However, Carrier failed to allow him birthday holiday compensation for the day, Wednesday, April 28th.

Claim was filed with proper officer of the Carrier under date of May 25, 1965, contending that claimant was entitled to eight (8) hours Birthday Holiday compensation for his birthday, April 28th, in addition to vacation pay received for that day, and subsequently handled up to and including the highest officer of Carrier designated to handle such claims, all of whom declined to make satisfactory adjustment.

The agreement effective September 8, 1961 as subsequently amended particularly by the February 4, 1965 agreement, is controlling.

POSITION OF EMPLOYEES: It is respectfully submitted that the Carrier erred when it failed and refused to allow claimant eight (8) hours birth-

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 waived right of appearance at hearing thereon.

Claimant was on vacation from April 25 to May 1, 1965, inclusive. His birthday was on April 25, 1965. He was paid eight (8) hours for each day of his vacation, including April 25, 1965. An employe's birthday is a paid holiday. Employes are requesting an additional eight (8) hours holiday pay for April 25, 1965.

The same issue is fully discussed in Award No. 5251. The principles and conclusions adopted in Award No. 5251 are here affirmed.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 13th day of October 1967.

DISSENT OF CARRIER MEMBERS TO AWARD NO. 5252

The majority's decision to sustain the claim presented in Award No. 5252 is based on the principles and conclusions stated in its findings in Award No. 5251. Accordingly, our dissent to Award No. 5251 is equally applicable to Award No. 5252 and is hereby adopted as such.

C. L. Melberg
F. P. Butler
H. F. M. Braidwood
H. K. Hagerman
P. R. Humphreys

LABOR MEMBERS' ANSWER TO CARRIER MEMBERS' DISSENT TO AWARD NOS. 5251, 5252, 5253, 5254, 5255, 5256, 5257 AND 5258

A dissent which merely expresses the chagrin of the dissenters is of little value. The dissent of the Carrier Members to Award Nos. 5251 through 5258 is such a dissent.

The dissent does nothing but review the arguments presented to the Division which were considered and disposed of in the findings of Award No. 5251.

The findings in Award No. 5251 and the Labor Members' dissents to Award Nos. 5230, 5231, 5232, 5233, 5310 and 5311 point out all of the reasons that Award Nos. 5230, 5231, 5232, 5233, 5310, 5311, 5328, 5329 and 5330 are palably erroneous. Therefore, Award Nos. 5251, 5252, 5253, 5254, 5255, 5256, 5257, and 5258 should dispose of this issue.

D. S. Anderson

C. E. Bagwell

E. J. McDermott

R. E. Stenzinger

O. L. Wertz