



Award No. 5290
Docket No. 5388
2-AT&SF-SM-'67

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Atchison, Topeka and Santa Fe Railway Company violated the Controlling Agreement when it failed to properly compensate Sheet Metal Worker, J. R. Carlisle for service performed on Labor Day (September 6, 1965) which was also his birthday-holiday.

2. That accordingly, the Atchison, Topeka and Santa Fe Railway System be ordered to additionally compensate Sheet Metal Worker, J. R. Carlisle in the amount of eight (8) hours at the time and one-half applicable rate of pay for service performed on his birthday-holiday Monday, September 6, 1965.

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 required to work eight hours on Labor Day, which was not only a holiday but also his birthday. He received eight hours pay for the holiday, as well as a like amount for his birthday and eight hours pay at the time and one-half rate for working on that day.

Petitioner contends that Claimant is entitled to another payment at the time and one-half rate since he performed work on both his birthday and the Holiday. We disagree. The parties plainly anticipated this specific situation in Article II Section 6 (f) of their February 4, 1965 Agreement, which provides that "If an employe's birthday falls on one of the seven holidays named in Article III of the Agreement of August 19, 1960, he may, by giving reasonable notice to his supervisor, have the following day or the day immediately pre-

ceding the first day during which he is not scheduled to work following such holiday considered as his birthday for the purposes of this Section."

Claimant did not exercise his option to celebrate his birthday on a date other than Labor Day and there is no sound basis here for awarding duplicate payments for the same eight hours work.

In line with Award 5218 and the many other awards cited therein that have passed upon precisely the same issue and rules as are now before us the present claim will be denied.

AWARD

Claim denied.

**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.