

**Award No. 5375**

**Docket No. 5181**

**2-AT&SF-BK-'68**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee James E. Knox when award was rendered.

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'  
DEPARTMENT, AFL-CIO (Blacksmiths)**

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That the Atchison, Topeka & Santa Fe Railway Company violated Article II, Section 6, paragraph (a) of the November 21, 1964 Agreement.

2. That accordingly, the Atchison, Topeka and Santa Fe Railway Company compensate Blacksmith Ray E. Mills for eight (8) hours at the straight time rate of pay, or an additional day off with pay for his birthday holiday while on vacation, which was denied.

**EMPLOYEES' STATEMENT OF FACTS:** Blacksmith, Ray E. Mills, hereinafter referred to as the claimant, was regularly employed by the Atchison, Topeka & Santa Fe Railway Company, hereinafter referred to as the Carrier, as a blacksmith (hammersmith) in Carrier's shop at Topeka, Kansas, with work week Monday through Friday, rest days Saturday and Sunday.

Claimant took his 1965 vacation April 19 through April 30, 1965, both dates inclusive, returning to service Monday, May 3, 1965. Claimant's birthday was Friday, April 30, 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, Friday, April 30, 1965.

Claim was filed with proper officer of the Carrier under date of June 5, 1965, contending that claimant was entitled to eight (8) hours' birthday holiday compensation for his birthday, April 30, in addition to vacation pay received for that day, and subsequently handled up to and including the highest officer of the Carrier designated to handle such claims, all of whom declined to make satisfactory adjustment.

The Agreement effective August 1, 1945, as subsequently amended is controlling.

additional facts, evidence and argument as it may conclude are required in reply to the Organization's ex parte submission or any subsequent oral arguments or briefs presented by the Organization in this dispute.

All that is contained herein has been both known and available to the Employees or their representatives.

Oral hearing is requested.

(Exhibits not reproduced.)

**FINDINGS:** The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 claimant is a regularly assigned employee with a work week from Monday through Friday. In 1965 his birthday fell on Friday during a work week he was on vacation. The claimant was not regularly assigned to work holidays and his position was blanked on his birthday.

This case which arises under the National Agreement of November 21 1964, is controlled by the findings in Award 2-5372.

#### AWARD

Claim sustained for 8 hours at the straight time rate of pay.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of February, 1968.