



Award No. 5377

Docket No. 5189

2-SP(PL)-FO-'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. 114, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Firemen & Oilers)**

**SOUTHERN PACIFIC COMPANY
(Pacific Lines)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Laborer R. L. Harper was unjustly treated when he was not allowed additional compensation for his birthday holiday on July 19, 1965, which fell during his vacation period.

2. That accordingly, the Carrier be ordered to compensate Laborer R. L. Harper an additional eight (8) hours at the pro rata rate of pay for his birthday holiday, which occurred July 19, 1965, during his annual vacation period, in accordance with the provisions of the November 21, 1964 National Mediation Agreement.

EMPLOYEES' STATEMENT OF FACTS: Laborer R. L. Harper, hereinafter referred to as the claimant, was regularly employed by the Southern Pacific Company (PL), hereinafter referred to as the Carrier, as a laborer in Carrier's Shop at Portland, Oregon, with work week Monday through Friday, rest days Saturday and Sunday.

Claimant took his 1965 vacation in July, 1965. Claimant's birthday was Monday, July 19, 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, Monday, July 19.

Claim was filed with proper officer of the Carrier under date of August 9, 1965, contending that claimant was entitled to eight (8) hours' birthday holiday compensation for his birthday, July 19, 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.

mission based on notice referred to herein of statement of claim to be presented by Petitioner in this case.

Carrier does not desire oral hearing unless requested by Petitioner.

(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 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.

The claimant is a regularly assigned employe with a work week from Monday through Friday. In 1965 his birthday fell on Monday 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.