



Award No. 5381
Docket No. 5201
2-KCS-MA-'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. 3, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Machinists)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement Machinist B. J. Babin has been improperly denied additional compensation in the amount of eight (8) hours at pro rata rate for June 11, 1965.

2. That the Carrier be ordered to additionally compensate the aforesaid claimant in the amount of eight hours (8) at the pro rata rate of pay for June 11, 1965.

EMPLOYEES' STATEMENT OF FACTS: Claimant is regularly assigned machinist at Carrier's Diesel Shop, Shreveport, with seniority date of April 16, 1923. He was on his assigned vacation June 11, 1965, Friday, which was his birthday-holiday. His birthday fell on a workday of his workweek while he was on vacation. He was only paid vacation pay for said day June 11, 1965 and was not paid birthday-holiday pay in addition thereto, as provided by the rules. This dispute has been handled, in accordance with the Agreement, with all Carrier officers authorized to handle grievances, including the highest designated officer, all of whom declined to adjust it.

POSITION OF EMPLOYEES: Claimant is entitled to eight hours (8) additional pay for June 11, 1965, or while on vacation account this date was his birthday-holiday. The February 4, 1965 Agreement, paragraph (a) Sec. 6, Art. 2 (Holidays) governs:

"For regularly assigned employees, if an employees' birthday falls on a workday of the workweek of an individual employee he shall be given the day off with pay; if an employees' birthday falls on other than a workday of the workweek of the individual employee, he shall receive eight hours' pay at the pro rata rate of the position to which assigned, in addition to any other pay to which he is otherwise entitled for that day, if any."

ployes another holiday (his birthday), no change was made in Section 3, Article 1 of the August 21, 1954 Agreement which deals with holidays included within an employee's vacation period. If the parties had intended to grant an employee another day off or additional pay in lieu thereof when his birthday falls during his vacation period, it would have been a simple matter to write adequate language to provide therefor. In view of the fact no change was made in Section 3, Article 1 of the August 21, 1954 Agreement, it is clear that the parties intended that the rules and practices governing holidays during vacation would continue without change in accordance with recommendations of Emergency Board No. 162, previously referred to herein.

In view of all the foregoing, Carrier respectfully requests that claim be denied.

Carrier's Exhibit A is attached hereto and made a part hereof as if fully contained herein. All data contained herein are known or have been made known to representatives of claimant by correspondence or in conference.

Carrier is willing to waive oral hearing unless such hearing is requested by petitioner, in which case Carrier, of course, desires to protect its interests.

(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 waived right of appearance at hearing thereon.

The claimant is a regularly assigned employee with a workweek 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 February 4, 1965, 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.

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