

Award No. 5444
Docket No. 5278
2-MKT-MA-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph S. Kane when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 8, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Machinists)**

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Missouri-Kansas-Texas Railroad Company violated the Agreement of February 4, 1965 when they declined to pay Birthday-Holiday pay to Machinist L. J. Smith on his birthday date, September 11, 1965.

2. That accordingly, the Missouri-Kansas-Texas Railroad Company be ordered to compensate Lead Machinist L. J. Smith in the amount of eight (8) hours at the applicable pro rata rate for his Birthday-Holiday pay.

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 was assigned vacation September 7, 1965 through September 11, 1965. Saturday, September 11, 1965 was the claimant's birthday, which was also one of his vacation days. His work assignment was Tuesday through Saturday.

The claim was for an additional day at eight hours for his birthday holiday incurred while on vacation.

The claim alleged in this dispute has been before the Board in Award No. 5442 wherein the same rules, facts and circumstances were denied.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

**ATTEST: Charles C. McCarthy
Executive Secretary**

Dated at Chicago, Illinois, this 3rd day of June, 1968.