

Award No. 5996

Docket No. 5852

2-RDG-(CM)-'70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 109, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

READING COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That Car Inspector Robert E. Strausser was improperly compensated under the terms of the current agreement for February 22, 1968, while on vacation.

2. That accordingly, the Carrier be ordered to additionally compensate said Car Inspector in the amount of eight hours at the time and one-half rate of pay.

EMPLOYEES' STATEMENT OF FACTS: Car Inspector Robert E. Strausser, hereinafter referred to as the claimant, is employed at Port Richmond Yard, Philadelphia, Pennsylvania. Claimant was on vacation Washington's Birthday, February 22, 1968. Car Inspector, Vacation Relief, Thomas J. Petritsch worked claimant's position while claimant was on vacation.

For services rendered on this day, Vacation Relief Car Inspector Petritsch received 8 hours' straight time pay and 8 hours' time and one-half rate of pay. A total of 20 hours' straight time pay. Claimant Strausser only received 8 hours' straight time pay for this day while on vacation.

While on vacation, claimant's position was filled every day by Relief Car Inspector Petritsch; February 22, 1968 was a regular work day of this assignment.

This dispute has been handled with the carrier up to and including the highest officer so designated by the carrier, with the result that he has declined to adjust same.

The agreement effective January 16, 1941 and the vacation agreement of December 17, 1941, as they have been subsequently amended, are controlling.

POSITION OF EMPLOYEES: The employees submit that the claimant is entitled to the rights and protection of the controlling agreements and particularly Article 7(a) of the vacation agreement of December 17, 1941, which reads as follows:

For the reasons advanced herein, carrier submits that the instant claim should be denied in its entirety.

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 question to be determined in this dispute is identical to that in Award No. 5995, and the Board is governed accordingly.

AWARD

The Claim is sustained.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 24th day of September, 1970.

DISSENT OF CARRIER MEMBERS TO AWARD NO. 5996

The Carrier's dissent to Award No. 5916 is equally applicable to Award Nos. 5995 and 5996.

For the reasons stated in the dissent to Award No. 5916, we believe the majority erred in the above Award.

H. F. M. Braidwood
W. R. Harris
P. R. Humphreys
J. R. Mathieu
H. S. Tansley