

Award No. 6183
Docket No. 6063
2-MP-CM-'71

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Jesse Simons when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Missouri Pacific Railroad Company violated the Agreement of November 21, 1964, when they deprived Car Inspector M. W. Thompson, Coffeyville, Kansas, the right to work his regular assignment on Saturday, November 1, 1969.

2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Car Inspector Thompson in the amount of eight (8) hours at the punitive rate for November 1, 1969.

EMPLOYEES' STATEMENT OF FACTS: Car Inspector M. W. Thompson, hereinafter referred to as the claimant, is employed by the Missouri Pacific Railroad Company, hereinafter referred to as the carrier, at Coffeyville, Kansas, and is assigned by bulletin as train yard inspector, work week Wednesday through Sunday, rest days Monday and Tuesday, assigned hours 7:00 A. M. to 3:00 P. M.

The claimant's birthday occurred on Saturday, November 1, 1969, and he was advised by Car Foreman Tatum not to report for work on this date account it being his birthday holiday. However, the carrier found it necessary to fill this position on this date (November 1, 1969), and Carman E. H. Babbs who is regularly assigned to the repair track, work week Tuesday through Saturday, rest days Sunday and Monday, assigned hours 7:00 A. M. to 4:00 P. M., was moved from his regularly assigned job to fill the claimant's job on this date, and to substantiate this fact the employees wish to quote Master Mechanic, Mr. H. R. Burge's letter of January 16, 1970, addressed to Local Chairman, Mr. M. C. George, reading:

"Wichita, Kansas
January 16, 1970

Mr. M. C. George
Local Chairman, Carmen
1523 So. Willow
Coffeyville, Kansas

position of the car inspector who was off on his birthday holiday but even if it can be said that claimant's position "was worked and filled", we have shown above that the claim is not supported by the rules and practice and should be declined.

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.

Because the clauses, rules and issues are the same as in Award 6113, and because the fact situation is basically the same, and because Award 6113 is controlling, the Board is sustaining the grievance.

However, in sustaining this grievance the Board notes that, in fact, the Carman who was assigned to do the work grievant would have done had he been assigned to work his birthday, did said work for five hours, not eight; thus grievant is entitled to five hours pay at the punitive rate, the propriety of paying an employe for part of a Birthday Holiday having been cogently set forth in Award 5325.

AWARD

Claim sustained, but only to the extent of five hours.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of October, 1971.