

Award No. 6299

Docket No. 6174

2-BN-EW-'72

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 7 (formerly System Federation No. 101), RAILWAY EMPLOYEES' DEPARTMENT, AFL-CIO (Electrical Workers)

BURLINGTON NORTHERN INC. (formerly CB&Q RR Co.)

DISPUTE: CLAIM OF EMPLOYEES:

1. That in violation of the Agreement of September 2, 1969, the Carrier improperly denied Electricians L. L. Sarnowski, W. G. Kiss, E. Connor, and S. Gorniak compensation for paid holidays in accord with said Agreement.

2. That accordingly, the Carrier be ordered to compensate the aforementioned Electricians at straight time rate for the following holidays:

New Year's Day — January 1, 1969 — 8 hours.

Washington's Birthday — February 22, 1969 — 8 hours.

Decoration Day — May 30, 1969 — 8 hours.

Fourth of July — July 4, 1969 — 8 hours.

Total of 32 hours.

EMPLOYEES' STATEMENT OF FACTS:

Electricians L. L. Sarnowski, W. G. Kiss, E. Conner and S. Gorniak, hereinafter referred to as the Claimants, are former Pullman Company employees who are employed by the Burlington Northern Inc., hereinafter referred to as the Carrier. The Claimants perform service at Carrier's 14th Street Passenger Yards, Chicago, Illinois.

The Claimants formerly performed service for the Pullman Company at the 14th Street Passenger Yards point being represented by the same Labor Organization as herein and they were covered by the same Vacation-Holiday Agreements as are pertinent to this dispute. They entered the service of the former Chicago, Burlington and Quincy Railroad Company on August 1, 1969, as a result of that former Carrier's withdrawal from the Uniform Service Contract with the Pullman Company. The Chicago, Burlington and Quincy

plicable after they entered the service of the Carrier on August 1, 1969 for periods subsequent thereto.

4. The Carrier has fulfilled all of its obligations to these claimants by employing them on August 1, 1969 and applying all the applicable rules governing hours of service, rates of pay and working conditions subsequent to the initial day of their employment on August 1, 1969.

For these reasons, the claim must be dismissed and/or denied.

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.

1. The agreement of January 26, 1966 does not show that the signatories intended to guarantee the existing debts of the Pullman Company.

2. The agreement of July 30, 1969 does not extend to payment of back wages, and these would be back wages. Timely application should have been made to The Pullman Company if there is any merit.

3. The Merger Agreement does not state, and does not mean, that any Carriers are protected, or are employers protected, except Carriers that were parties to the merger, and their employes.

4. The shopcraft Special Board of Adjustment created by the Mediation agreement, has exclusive jurisdiction over disputes relating to employe protection.

Conclusion: The N.R.A.B., Second Division does not have jurisdiction in this matter. If they did, the result would still be the same according to paragraphs 1, 2, and 3.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of June 1972.

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