

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

Parties to Dispute: (System Federation No. 2, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Galveston, Houston and Henderson Railroad Company

Dispute: Claim of Employee:

1. That the Galveston, Houston and Henderson Railroad Company violated Article III of the Agreement of June 5, 1962, when Carman William H. Brown, Galveston, Texas, was not given proper notice that his position would not work on the Labor Day Holiday, September 1, 1975.
2. That accordingly, the Galveston, Houston and Henderson Railroad Company be ordered to compensate Carman Brown in the amount of eight hours (8') at time and one-half rate account his working his regular position on the Labor Day Holiday, September 1, 1975.

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.

On Friday, August 29 and Saturday, August 30, 1975, respectively, Carrier posted bulletins at its Galveston, Texas location indicating that no work would be performed on Monday, September 1, Labor Day. Claimant William H. Brown is assigned to the 11 p.m. to 7 a.m. shift, Thursday through Monday; his rest days are Tuesday and Wednesday. Claimant, therefore, was at work on the days the bulletins "annulling" work on Labor Day were posted. Claimant reported for work on Labor Day--the only employee who did so--and as a result submitted a claim for eight hours' pay at time and one-half for working on a holiday.

Petitioner alleges that Claimant Brown did not receive proper notice that his position would not be worked Labor Day and that this constitutes a violation of Article II of the Agreement, which requires "not less than five (5) working days' advance notice shall be given before...positions are abolished."

Carrier maintains, among other arguments, that Article III is not applicable, since the jobs were not abolished but blanked for the holiday, a right recognized by the Board in previous decisions; that according to the notice no employee was authorized to work on Labor Day and that no employee except the Claimant reported and/or worked on that holiday; and that the posted notices were the same or similar to previous bulletins dealing with holidays including the bulletin posted May 23, 1975 referring to Memorial Day, when all employees including the Claimant did not work.

Carrier posted the usual notice annulling the Switch Engine assignments at Galveston, Texas for one day, September 1, 1975 (Labor Day). Claimant was the only carman that reported for work. Though no other employees reported, Claimant remained on duty. The claim for pay for that day was denied giving rise to the instant claim, alleging violation of the June 5, 1962 agreement which requires five working days' notice before abolishing positions or reducing forces.

This Board has long held that Carrier has the right to work or not work employees on holidays, absent specific rules to the contrary. Carrier makes the unrefuted statement that the same type bulletins as posted for the holiday in question have always been accepted by the employees, including Claimant, as notice that their services would not be required. (Carrier's Exhibit B sheets 3 and 4 corroborates Carrier's statement).

The burden of proof rests with the Petitioner. Petitioner has failed to support the allegation that the Agreement was violated.

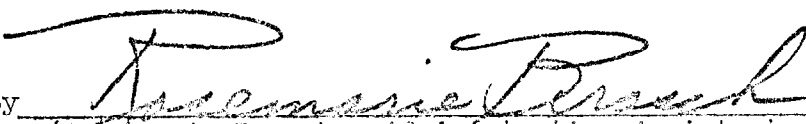
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 24th day of February, 1978.