

The Second Division consisted of the regular members and in addition Referee Robert A. Franden when award was rendered.

Parties to Dispute: { International Association of Machinists
{ and Aerospace Workers
{
{ Houston Belt and Terminal Railway Company

Dispute: Claim of Employes:

1. That Carrier violated Rule 28, paragraph (b) of the Agreement dated September 1, 1949, as amended, with the posting of Bulletin No. 29 dated December 15, 1976.
2. That, accordingly, Machinist Apprentice J. Brose be compensated eight (8) hours pay at the pro rata rate of pay for the Christmas Eve, Christmas and New Year's Day Holidays provided in the Agreement.

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.

This claim was originally progressed on the property as one for a violation of Rule 28(b) and failure to compensate claimant properly under the August 19, 1960 Holiday Agreement as amended, for Christmas Eve, Christmas Day and New Year's Day. As finally perfected to this Board the claim is for the three days' holiday pay. No argument as to the 28(b) violation was advanced.

The Carrier in its submission speaks only to the propriety of the Board considering the claim. The Carrier takes the position that the claim before this Board is not the same claim that was progressed on the property and that the claim handled on the property is now defeated by the time limit rule. The Carrier argues that the claim before us is a new claim.

We cannot agree with the Carrier's assertion. The claimant has progressed on the property and perfected an appeal to this Board, a claim for a violation of the August 19, 1960 Holiday Agreement as amended, for which he is asking compensation for three holidays.

The claimant has set forth that he qualified under the Agreement for holiday pay (60 days' seniority and compensation for 11 of the 30 days preceding the holiday). The Carrier has not denied this. Under the Agreement Claimant was entitled to be paid as claimed.

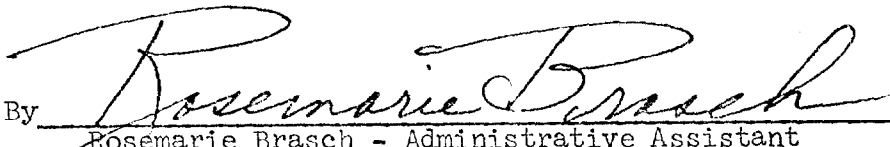
A W A R D

Claim sustained.

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 25th day of July, 1979.