

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

(Brotherhood Railway Carmen of the United States  
( and Canada

Parties to Dispute: (

(Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. That the Baltimore and Ohio Railroad Company violated the controlling Agreement, Rules 3 1/2 and 15, when on the date of February 22, 1983, they failed to call Claimant for work, as per his entitlement, under the provisions of Rule 24 1/2, bypassed Claimant and called the next junior employe, and subsequently deprived Claimant of holiday pay to which entitled, such holiday, Washington's Birthday, February 21, 1983; further Carrier failed to fill a known vacancy of thirty (30) days or more, the result of which would have been that Claimant Parker would have been recalled from furloughed status, and would have occupied a regular position on the date of February 22, 1983.

2. That accordingly, Carrier be ordered to compensate Claimant for monetary losses suffered as a result of such violations, to the extent as claimed: eight (8) hours' pay at the straight time rate for legal holiday, Washington's Birthday, February 21, 1983.

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 employes 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 dispute arose after the Carrier denied the Claimant holiday pay for February 21, 1983. The Carrier contends that one of its officials called the Claimant on the morning of February 22, 1983, at approximately 7:20 A.M. for a first shift vacancy. However, a person, who the Carrier states did not identify herself, answered the telephone and told the Carrier's official that the Claimant was not at home. Accordingly, the Carrier asserts that the Claimant was not available for service the day following the holiday, and consequently was not qualified for holiday pay on February 21, 1983, under the provision of Rule 3 1/2 of the Controlling Agreement.

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The Organization, in its vigorous protest of record and before the Board, essentially contends that the Carrier did not prove that it called the Claimant and that, as a matter of fact, the Claimant was available for service. It also questions Carrier's right to insist on the Claimant's availability at 7:20 A.M., when the shift had a regular starting time of 7:00 A.M., i.e., 20 minutes earlier than Carrier's alleged call.

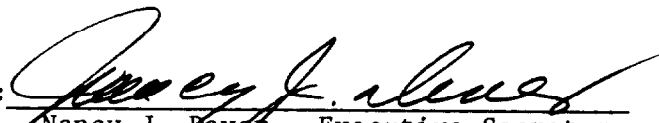
While both parties have progressed and argued a number of issues related to the Claim, which we have thoroughly reviewed, in addition to the supporting Awards presented, we hold that the controlling question is whether or not the Claimant was available for service within the framework of Rule 3 1/2. Here, the Carrier has submitted a signed statement from one of its officials that he called the Claimant and spoke with an unidentified female. While the Organization is not unreasonable in its assertions that it could have expected the Carrier to have obtained the identity of this person, the Claimant must do more than merely challenge the validity of the Carrier's statement. Absent some form of substantive information from the Claimant, the Board accepts the Carrier's contention. Therefore, under the circumstances shown in the record, the Claimant was not available on Tuesday, February 22, 1983, and we cannot sustain the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1986.