

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Missouri Pacific Railroad Company)

STATEMENT OF CLAIM:

1. That the Missouri Pacific Railroad violated the Note to Rule 5 of the June 1, 1960 controlling agreement when they denied Electrician R. Salazar his contractual rights to a five (5) day notice preceding the holiday, December 24, 1985, Christmas Eve, at Houston, Texas.

2. That, accordingly, the Carrier be ordered to (a) compensate Electrician R. Salazar five (5) days, eight (8) hours a day, at the pro rata rate for the Carrier failing to give a five (5) day notice to work the holiday; (b) the Carrier cease the practice of violating the NOTE to Rule 5 as given herein, and, (c) in addition to the money amounts claimed herein, the Carrier shall pay Claimant an additional amount of 6% per annum compounded annually on the anniversary date of the claim.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Claim before the Board centers on almost the identical circumstances and Claim, already heard before this Board (Second Division Award 11650), wherein the Organization alleged Carrier's violation of the Note to Rule 5. The only essential difference in the on-property dispute is the holiday involved. We find all other issues, lines of argument and probative evidence to be equivalent.

In that case by reference, as in this, the Board concludes that the Carrier has violated the Agreement. Under the same logic and argument of that Award, supra, the Board concludes, as it stated therein, that:

"Accordingly, the Board sustains part 1 of the Claim. Given the particular facts and circumstances of this record, wherein the action by Carrier occurred on the day before the holiday and that the Carrier provided no probative evidence that its action was reasonable and necessary, the Board finds that Claimant is to be awarded one full days pay at the pro rata rate. All other aspects of this claim are rejected. This is consistent with the reasoning and decisions of past Awards on this property (Second Division Awards 11034, 9229, 7443)."

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 15th day of February 1989.