

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12509
Docket No. 12405
93-2-91-2-206

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

PARTIES TO DISPUTE: (Sheet Metal Workers International
(Association
(CSX Transportation, Inc. (former
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

1) That the Carrier, under the current applicable agreement between the Sheet Metal Workers and the Carrier, violated Article IV (b) of the National Vacation Agreement.

2) That accordingly, the Carrier be ordered to compensate the employees, J. R. Cobb and D. Lucas forty hours (40) pay each at the straight time rate.

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.

The Claimants did not have accumulated vacation time, and were not allowed to work during the Christmas shutdown in 1990. The two Claimants were paid for four holidays during the shutdown period.

The Organization recognizes that under certain circumstances, Carrier may require forces to take vacation at the same time, but contends that the Carrier should have worked those not entitled to vacation, rather than furloughing them.

Article IV (b) of the National Vacation Agreement provides:

"The Management may upon reasonable notice (of thirty (30) days or more...require all or any number of employees in any plant, operation, or facility, who are entitled to vacations to take vacations at the same time.

The local committee ...and the proper representative of the Carrier will cooperate in the assignment of remaining forces."

In Carrier's final denial on the property (July 2, 1991) it advised:

"...the Carrier did meet with the Local Chairman of your Organization to 'cooperate in the assignment of remaining forces.' In these discussions, the Carrier stated that it was willing to allow the employees without vacation to work during the shutdown period. However, this offer was rejected in favor of senior men having the option to work if they desired, and seven senior sheet metal workers did work on plant maintenance during the shutdown."

The record contains no subsequent denial of that assertion, and the Organization gave notice to the Board of intention to submit an ex parte submission of the dispute on August 6, 1991.


Under the circumstances, we must deny 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 3rd day of February 1993.