

Award No. 7721

Docket No. CL-7788

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The Carrier violated the provisions of Article II—Holidays, of the Agreement signed at Chicago, Ill. August 21, 1954, when it denied Janitress, Stella Pat-scavage, one day's pay at pro rata rate, covering wages for Washington's Birthday, February 22, 1955, and

(b) The Carrier shall be required to reimburse Stella Pat-scavage in the amount of one day's pay, claimed herein.

EMPLOYES' STATEMENT OF FACTS: The Carrier maintains a force of four (4) regularly assigned positions at the Scranton, Pa., General Office Building with hours of service 5:00 P. M. to 10:00 P. M., daily, excluding Saturdays, Sundays, and holidays. The duties attached to the aforementioned positions are general cleaning of the various offices in said building. The Claimant, at the time of the instant violation, held the status of the senior extra employe covering such work.

By virtue of Mary Gilhooley, one of the regularly assigned incumbents, having been granted the right to be absent as vacation allowance during the period February 17 to 23, 1955, inclusive, the Claimant was assigned to fill the vacancy.

Every effort was made by the Clerks' Committee, in direct handling with appropriate Carrier officials to adjust this claim and, unable to prevail upon Management to do so, it is now placed before Your Honorable Board for adjudication.

POSITION OF EMPLOYES: There is in evidence, an Agreement between the parties to this dispute, bearing the effective date of January 1, 1939. There is also in evidence, an Agreement between the parties, signed at Chicago, Ill., August 21, 1954 by and between the participating Eastern, Western and Southeastern Carriers and the Employes, represented by the Fifteen Cooperating Railway Labor Organizations, signatory thereto, which Agreement (hereinafter referred to as the Chicago Agreement) was in effect on the date involved in the instant claim. A copy of the Agreement and the Chicago

6856. Consequently, the language of Article II, Section 1, of the August 21, 1954 Agreement limits the application of the entire Article to "regularly assigned" employees. Stated differently, an employee failing to meet this indispensable condition is not entitled to holiday pay. It is just that plain and simple.

The Carrier has shown your honorable Board that the Claimant was an "extra" employee, not a "regularly assigned" employee, and that the controlling agreement limits the application of the holiday pay provisions to "regularly assigned hourly or daily rated employees".

There is no rule, precedent or practice to support the Employees' position in this case. The claim is without merit and should be denied.

All data in support of the Carrier's position have been handled on the property with the Employees' representatives.

OPINION OF BOARD: The record shows that claimant herein held the status of senior extra employee at the time she was assigned to fill a vacancy in a position while the regular incumbent thereof was off on vacation.

Based on Awards 7430, 7431 and 7432, the claimant herein will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 25th day of February, 1957.