Award No. 7852

Docket No. SG-8429

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Erie Railroad that:

(a) The Carrier violated the Vacation Agreement dated December 17, 1941, as amended, when it denied Messrs. E. F. Books and J. F. Ledvina paid holiday for July 5, 1954, and denied Mr. S. G. Spath paid holiday for May 31, 1954, in accordance with the provisions of the Vacation Agreement, as amended.

(b) Proper compensation adjustment be made.

EMPLOYES' STATEMENT OF FACTS: Prior to February 1, 1954, the signal employes of this Carrier's Marion Division furnished the Carrier with copies of their requests for vacation dates for 1954. On February 1, 1954, after vacation dates had been fixed in accordance with Article 4(a) of the Vacation Agreement, the Carrier issued a letter to all its signal employes on the Marion Division, reading as follows:

"ERIE RAILROAD COMPANY

Huntington, Indiana, February 1, 1954.

RE: Vacations—Year 1954

TO ALL CONCERNED:

The following vacation schedule will apply for Signal Department employes, Marion Division:

1. February 12 to February 26.....T. Jacobson
2. February 15 to February 19.....H. J. Pearson
3. April 19 to April 30.....N. A. Walburn
4. May 17 to May 28.....W. Nicodemus
5. May 17 to May 28.....G. V. Books
6. June 1 to June 7.....R. M. Dinius
7. June 1 to June 7.....S. G. Spath
8. June 1 to June 7.....D. H. Young

holidays inconsistent with this policy, an adjustment should be made in vacation days due."

The Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes accepted the interpretations and progressed no claims. The Order of Railway Telegraphers progressed two claims and after conference withdrew and closed the cases. The Brotherhood of Maintenance of Way Employes submitted a claim and after conference withdrew and closed the case.

The Brotherhood of Railway Signalmen accepted the interpretation in one instance. In the original claim it covered E. F. Books, J. F. Ledvina, E. F. Dinius and S. G. Spath, but the claim of E. F. Dinius was withdrawn and closed because he had started his vacation on June 28th to July 12th, 1954. In other words because Dinius was on vacation prior to the holiday as well as after the holiday, he was not entitled to the additional day's pay for the holiday. Copy of General Chairman W. D. Wilson's letter of April 5, 1955 withdrawing this claim is attached as Carrier's Exhibit "A". Therefore the Carrier submits that the Brotherhood of Railway Signalmen is endeavoring to obtain a different interpretation for the year 1954 applying to three individuals then applied to all other non-operating employes on this railroad.

The claim is without merit and should be denied.

All data presented herein have been presented to or are known to the Employes.

(Exhibits not reproduced.)

OPINION OF BOARD: The Agreement of August 21, 1954, was signed after Claimants Books, Ledvina and Spath had completed their 1954 vacations.

The vacation period taken by each was approved by Carrier. They were as follows:

Books	July 6 through July 19
Ledvina	July 6 through July 19
Spath	June 1 through June 7

At the time these vacations were taken, two legal holidays, May 31 and July 5—both Mondays—were idle days for Claimants. There were then no paid holidays.

The August 21, 1954, Agreement provided for certain paid holidays, among them Decoration Day and Fourth of July, and this was made retroactive to May 1, 1954.

Section 3 of the 1954 Agreement provides:

> "When, during an employe's vacation period, any of the seven recognized holidays * * * falls on what would be a work day of an employe's regularly assigned work week, such day shall be considered as a work day of the period for which the employe is entitled to vacation."

Carrier argues that the holidays "did fall within the work-week during the period claimants were absent on vacation, and as a result they actually had an additional day off as vacation."

But the facts here are clear. The vacation period agreed to by Carrier for Books and Ledvina officially began July 6, 1954, and for Spath on June 1, 1954.

It is equally clear they do not fall within the intent of Section 3 of the August 21, 1954, Agreement, because that clearly stipulates:

> "When, during an employe's vacation period, any of the seven recognized holidays * * * falls", etc.

Therefore, because two recognized holidays, May 31 and July 5 fell outside the stipulated vacation period of Claimants, their claims must be and are sustained.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

That the Carrier and the Employes involved in this dispute are respectively carrier and employes 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 has been violated.

AWARD

Claim (a) and (b) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 9th day of May, 1957.