

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 reduced Mr. J. R. O'Connor's vacation assignment by one (1) day in 1954.

(b) Proper compensation adjustment be made.

EMPLOYEES' STATEMENT OF FACTS: When the vacation schedule for 1954 was drawn up and the employees notified, J. R. O'Connor was assigned a vacation date commencing July 6, 1954, through July 12, 1954, and December 27, 1954, through December 31, 1954.

On July 6, 1954, the claimant commenced his vacation schedule and ended this part of the schedule on July 12, 1954, as previously agreed to by the Brotherhood and the Carrier. Then in September 1954, after the signing of the August 21, 1954 Agreement, the Carrier advised the claimant to make request for his additional week's vacation due him under the provisions of the August 21, 1954 Agreement. The claimant requested that he be granted a vacation from December 20, 1954, through December 24, 1954. On September 20, 1954, the claimant was advised by the Carrier that his request for dates from December 20, 1954, through December 24, 1954, had been granted.

On October 12, 1954, the Carrier advised the claimant, that he would only be granted four (4) days' vacation, December 21 through 24, 1954; due to July 5, 1954, falling on a work day of the work week of the claimant, he would be required to take July 5, 1954, as a day of his vacation even though the holiday fell on a work day prior to the commencing date of the claimant's holiday period and not during his vacation period.

The claimant was required to work his assignment on December 20, 1954, a day of his vacation assignment assigned and granted to him by letter dated September 20, 1954, by the Carrier.

The claimant was compensated for the day immediately prior to and following the holiday on July 5, 1954; therefore, he qualified for the holiday

The Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees accepted the interpretation and progressed no claims. The Order of Railroad Telegraphers progressed two claims similar to the instant case and after conference withdrew and closed the cases. The Brotherhood of Maintenance of Way Employees submitted a claim and after conference withdrew and closed the case. The other organizations agreed that when a holiday was paid for under Article II, Section 1, of the Agreement that such day could be applied against vacation under Article I, Section 3.

Therefore, the Brotherhood of Railroad Signalmen is endeavoring to obtain a different interpretation for the year 1954 applying to one individual than applied to all other non-operating employees 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 employees.

(Exhibits not reproduced.)

OPINION OF BOARD: The basic fundamentals in this case are similar to those in SG-8429, this day decided as Award 7852, but the circumstances here differ slightly.

Claimant J. R. O'Connor took his 1954 vacation, by agreement with the Carrier, at two different periods:

July 6 through July 12
December 20 through December 24

Carrier, however, gave him holiday pay for July 5, 1954 and then, on the assertion such holiday fell on a workday of the employee's work week, denied him a day of vacation when he took the final portion of his vacation in December.

However, in this case, as in Docket SG-8429, we must and do hold claimant was not on vacation July 5, 1954 because his vacation period did not begin until July 6. We must also hold that the July 5 holiday fell **outside** his vacation period, and a sustaining Award is, therefore, in order.

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 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 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.