

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis B. Murphy, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

THE MINNEAPOLIS & ST. LOUIS RAILWAY COMPANY

STATEMENT OF CLAIM:

(1) The Carrier violated the Agreement when it failed and refused to allow eight hours' straight time pay to Section Laborer Bonnie B. Ellifritz for Thanksgiving Day, November 25, 1954.

(2) Section Laborer Bonnie B. Ellifritz now be allowed eight hours' pay at straight time rate because of the violation referred to in part (1) of this claim.

JOINT STATEMENT OF FACTS: Claimant Bonnie B. Ellifritz is employed by the Carrier as a Trackman (Section Laborer) on Section No. 109, with seniority dating established in such a class as of April 16, 1941. In seniority order, he is the second oldest Trackman on Section No. 109, his name and seniority dating following that of Donald E. Thomas, who is the senior Trackman on Section No. 109.

At the close of the regular tour of duty on November 15, 1954, the labor allowance for Section No. 109 was reduced to one (1) Trackman, resulting in claimant Ellifritz being cut off and Donald E. Thomas being the only Trackman left on that section.

Trackman Donald E. Thomas was granted his vacation beginning on Monday, November 22, 1954 through Friday, December 3, 1954, and, in recognition of Claimant Ellifritz's seniority rights, he was re-called to the service as a Trackman. During Trackman Thomas' vacation period, one (1) holiday (Thanksgiving) occurred on November 25, 1954. Trackman Ellifritz worked each day of the vacation period of Trackman Thomas, aside from Thanksgiving Day, November 25, 1954, and he was not allowed pay for this holiday.

Claim for one (1) day's compensation was filed in behalf of Trackman Ellifritz and the Carrier has declined the claim.

That article is clear, definite and unambiguous. The payment therein provided for applies only to each "regularly assigned hourly and daily rated employee", not to extra, furloughed or unassigned employees.

The claim is without merit and should be denied.

All data in support of Carrier's Position has been presented to the representative of the Employees.

OPINION OF BOARD: The Parties have filed a Joint Submission of the facts in this case wherein they agree that Claimant, Bonnie B. Ellifritz, was a furloughed employee called to work a trackman position from Monday, November 22, 1954 to Friday, December 3, 1954, during a vacation vacancy. One of the recognized holidays, Thanksgiving Day, November 25, 1954, fell and the Claimant worked the days immediately preceding and following the holidays, but he did not work the holiday.

The Organization contends that Article II of the August 21, 1954 Non-Operating Employees' Agreement entitles Mr. Ellifritz to compensation at the straight time rate for this Thanksgiving Day, as he was considered a regular employee and had only been furloughed prior to his being called for this vacation assignment.

The Parties agree in their joint submission that Mr. Bonnie B. Ellifritz, was a furloughed employee and was called to work a trackman position from Monday, November 22, 1954 to Friday, December 3, 1954. Article II, Section 1 of the Holiday Agreement relates specifically to "* * * each regularly assigned * * *" employee.

Mr. Ellifritz does not so qualify and we find that this claim must 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 Employee involved in this dispute are respectively carrier and employee 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 5th day of August, 1959.