

Award No. 9640

Docket No. CL-9413

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Oliver Crowther, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

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

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, as well as the National Vacation Agreement of December 17, 1941, as amended August 21, 1954, when John F. Marley, Station Baggage-man, 30th Street Station, Philadelphia, Pa., former Philadelphia Terminal Division, was deprived of one day's vacation due to the action of the Carrier in considering Decoration Day, May 30, 1955, as one of his five vacation days due.

(b) John F. Marley be compensated for one day's pay at punitive rate of pay as vacation pay not allowed, on account of this violation.
(Docket 32)

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as the representative of the class or craft of employees in which the Claimant in this case held a position and the Pennsylvania Railroad Company—hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, except as amended, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act, and also with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts. Various Rules thereof may be referred to herein from time to time without quoting in full.

The Claimant in this case, John F. Marley, was the incumbent of a regular position of Station Baggage-man at the 30th Street Station, Philadelphia, Pa., located on the former Philadelphia Terminal Division of the Carrier. The Claimant has seniority standing on the seniority roster for this Division in

disregard the Agreements between the parties and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The Carrier has established that no provision of the applicable Agreements has been violated and that the Claimant is not entitled to the additional compensation which he claims.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employee in this matter.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Claimant, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter and the establishment of a record of all of the same.

All data contained herein have been presented to the employee involved or to his duly authorized representative. (Exhibits not reproduced)

OPINION OF BOARD: Claimant's vacation period included a holiday and under Section 3 of Article I of the August 21, 1954 National Agreement, the holiday was properly considered a workday of the period for which Claimant was entitled to vacation. Accordingly, the 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of November, 1960.