

Award No. 10502
Docket No. MW-9719

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
THE ALABAMA GREAT SOUTHERN RAILROAD COMPANY

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

(1) The Carrier violated the effective Agreement when it failed and refused to allow certain of its Maintenance of Way employees eight hours' straight time pay for the December 26, 1955 and January 2, 1956 holidays.

(2) Each of the Claimants be allowed sixteen hours' pay at their respective straight time rates because of the violation referred to in Part (1) of this claim.

Note: The Claimants have been identified in a letter dated June 13, 1956 addressed to Mr. J. F. Beaver, Assistant Chief Engineer by General Chairman G. W. Ball and confirmed in a letter dated June 29, 1956 addressed to General Chairman Ball by Mr. Beaver.

EMPLOYEES' STATEMENT OF FACTS: The Claimants referred to in the Statement of Claim were regularly assigned to various hourly rated positions in the Maintenance of Way and Structures Department. On or about December 23, 1955, the Claimants were notified that they were laid off, effective with the close of the work period on Friday, December 23, 1955. On or about January 2, 1956, each of the Claimants was notified to report for service on his respective position and gang at the beginning of the work period on Tuesday, January 3, 1956.

In complying with the Carrier's instructions, each of the Claimants received compensation credited by the Carrier to Friday, December 23, 1955, and to Tuesday, January 3, 1956.

In August of 1954 the parties consummated an agreement providing for eight hours' straight time pay for each of the seven designated holidays not worked (which includes Christmas and New Year's Day). The Carrier has

All evidence here submitted is known to employe representatives.

Carrier not having seen the Brotherhood's submission reserves the right after having done so to make appropriate response thereto.

OPINION OF BOARD: In its essential aspects this claim is not distinguishable from the claims which led to our Awards 10245 (Gray) and 10284 (Stark).

Even though there may be equity in the Claimants position, we find no discriminating circumstances in the record which would indicate the Carrier acted in an arbitrary manner, thus depriving the Employes of an opportunity to qualify for holiday pay under Section 3 of Article II of the August 21, 1954, Agreement.

There is no reason to assume, therefore, that the Carrier's force reduction decision was based on any different consideration than those used in preceeding years.

After considering all the circumstances, it is our conclusion that 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 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 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 3rd day of April 1962.