

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
NEW ORLEANS AND NORTHEASTERN RAILROAD COMPANY
AND THE NEW ORLEANS TERMINAL 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 Thanksgiving Day, November 24, 1955.

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

Note: The Claimants have been identified in the attachments to a letter dated June 19, 1956 addressed to Mr. J. F. Beaver, Assistant Chief Engineer by General Chairman Danner and confirmed in a letter dated June 30, 1956 addressed to General Chairman Danner 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 November 23, 1955 the Claimants were notified that they were laid off, effective with the close of the work period on Wednesday, November 23, 1955. On or about November 26, 1955 each of the Claimants was notified to report for service on his respective position and gang at the beginning of the work period on Monday, November 28, 1955.

In complying with the Carrier's instructions, each of the Claimants received compensation credited by the Carrier to Wednesday, November 23, 1955, and to Monday, November 28, 1955.

In August of 1954 the parties consummated an agreement providing for eight hours' straight time pay for each of the seven designated holidays, which includes Thanksgiving Day, not worked. The Carrier has refused to

All evidence here submitted is known to employe representatives.

Carrier not having seen the Brotherhood's submission reserves the right, after doing 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 Award 10175 (Daly) and 10287 (Wilson). We see no reason for reaching a different conclusion.

Even though there may be equity in the Claimants' position, this Board has no power to change the Agreement which required the employes to receive compensation credit for November 25, 1955, the day immediately following the holiday. Since the Claimants failed to qualify for holiday pay, we hold that the claim is without merit and 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.