

Award No. 10724
Docket No. SG-10165

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
GULF, MOBILE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Gulf, Mobile and Ohio Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, when it refused to compensate the signal employees at Bridgeport Bridge listed in part (b) hereof at the overtime rate for work performed on February 22, 1957, Washington's Birthday.

(b) The Carrier now be required to allow the difference between the straight-time rate received and their respective overtime rate to the following employees: Leading Signalman E. J. Treasure; Signalman E. Freeston; Signalman F. E. Heldt.

EMPLOYEES' STATEMENT OF FACTS: The claimants in this dispute are regularly assigned Signal Employees at Bridgeport Bridge, Ill., and worked eight hours on Friday, February 22, 1957, which was Washington's Birthday, a legal holiday. Inasmuch as the claimants performed work on this day, they each claimed eight hours at time and one-half rate and also claimed eight hours at the straight-time rate (holiday pay) due to February 22, 1957, being one of the seven recognized holidays. The Carrier allowed each of the claimants eight hours at the straight-time rate for working on that date and eight hours each at the straight-time rate for holiday pay.

Upon being denied the time and one-half rate for performing work on the recognized holiday, a claim was filed in behalf of the claimants by **General Chairman J. E. Powell** with **Mr. H. C. Sampson, Superintendent of Signals**, under date of **March 13, 1957**, in a letter which read as follows:

"I have received a letter from the Signalmen employed at Bridgeport Bridge stating that there claim for time and one half rate for February 22nd has been denied.

Article 2, Section 1, of the August 21, 1954 Agreement reads as follows:

tain employees on seven (7) enumerated holidays. Washington's Birthday is one of the enumerated Holidays. Section 5 of Article II provides that the Holiday Rule shall not be construed to change **existing rules and practices** thereunder covering the payment for work performed by an employee on a holiday. This provision specifically states that the Holiday Rule of the August 21, 1954 Agreement did not in any way affect or "change existing rules". The "existing rule", which is Rule 8(a) of the current Agreement (effective November 1, 1950) does not include Washington's Birthday in naming the Holidays on which time and one-half payments will be made.

This Board Is Without Authority To Change Agreements

The employees are attempting by a procedure before this Board to have Washington's Birthday incorporated as one of the holidays specified in Rule 8. This Board does not have the authority to enlarge or expand an Agreement to include a holiday that the Agreement does not contain. See **Awards 7166, 6828** and others.

A similar case is pending before this Board in **Docket SG-9072** involving a claim for time and one-half payments to signalmen on the Union Railroad. The basic Agreement on the Union Railroad, like the Agreement on the Gulf, Mobile and Ohio Railroad, does not include Washington's Birthday as one of the stipulated holidays.

CONCLUSION

There is no provision of the Agreement between the parties to this dispute providing for payment of overtime rates for work performed on Washington's Birthday.

The claim is totally without merit and should be denied.

Carrier reserves the right to make an answer to any further submission of the Organization.

OPINION OF BOARD: This dispute is between the Brotherhood of Railroad Signalmen and the Gulf, Mobile and Ohio Railroad Company.

Claimants in this case worked 8 hours on Washington's Birthday, a legal holiday. The Carrier allowed each of the Claimants 8 hours of straight time and 8 hours at straight time rate for working a holiday.

Petitioner contends that Claimants are entitled to overtime rate for work performed on a legal holiday.

The Agreements involved herein are as follows:

"Article 2, Section 1, of the August 21, 1954 Agreement reads as follows:

'Section 1. Effective May 1, 1954, each regularly assigned hourly and daily rated employe shall receive eight hours' pay at the pro rata hourly rate of the position to which assigned for each of the following enumerated holidays when such holiday falls on a workday of the workweek of the individual employe:

'New Year's Day	Labor Day
Washington's Birthday	Thanksgiving Day
Decoration Day	Christmas
Fourth of July	

'Note: This rule does not disturb agreements or practices now in effect under which any other day is substituted or observed in place of any of the above-enumerated holidays.'

"Rule 8

"Work on Holidays and Rest Days

"(Changed by 40-Hour Week Agreement of March 19, 1949)

"(a) Work performed by hourly rated employees on the following legal Holidays, namely, New Year's Day, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day (provided when any of the above Holidays fall on Sunday, the day observed by the state, nation or by proclamation, shall be considered the Holiday) shall be paid for at the rate of time and one-half."

Award 9084 (McMahon) is squarely in point with the instant case. We concur with the opinion expressed therein.

For this reason, we believe there was a violation of the Agreement.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1962.