

Award No. 14078
Docket No. TE-13923

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Western Pacific Railroad, that:

1. Carrier violated the terms of an agreement between the parties when it failed and refused to properly compensate C. W. Pate, 1st shift wire chief, Sacramento, California, for time worked on the following holidays: December 25, 1961 and January 1, 1962.

2. Carrier shall now compensate C. W. Pate for a day's pay at the time and one-half rate for each of the holidays set out in paragraph one hereof, in addition to the compensation already paid him for work performed on these days.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an agreement by and between the parties hereto, effective June 1, 1940, revised January 1, 1953, and as otherwise amended. Copies of said agreement are on file with your Board.

C. W. Pate, hereinafter referred to as Claimant, was on the dates involved in this claim the regularly assigned first shift wire chief, Sacramento, California. As such he had an assigned work week of Tuesday through Saturday, rest days Sunday and Monday.

The Western Pacific Railroad Company is the respondent and will hereinafter be referred to as Carrier.

On or about May 26, 1961, the Carrier notified Claimant that because of lack of qualified wire chiefs to fill the rest day vacancies on his position account the regularly assigned rest day relief employe, who formerly filled these vacancies, had exercised his seniority on another position, he (Claimant) would work the rest days of his position until further notice. This arrangement continued in effect through the period involved in this claim.

Monday, December 25, 1961, and Monday, January 1, 1962, respectively, were Christmas and New Year's Day, holidays within the meaning of Rule 9,

OPINION OF BOARD: This case presents the identical jurisdictional issue upon which we passed in Award No. 14077. For the reasons stated in that Award we will dismiss this Claim for lack of jurisdiction.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 does not have jurisdiction over the dispute involved herein.

AWARD

Claim dismissed for lack of jurisdiction.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 12th day of January 1966.