

Award No. 14517
Docket No. MW-13717

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
TENNESSEE CENTRAL RAILWAY COMPANY**

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

(1) The Carrier violated the Agreement when it failed and refused to allow certain hourly rated employees (identified in the attachment hereto) eight hours' straight time pay for the Decoration Day and/or the Fourth of July holidays of 1961.

(2) Each of the claimants be allowed the exact amount of monetary loss suffered because of the violation referred to in Part (1) of this claim.

ATTACHMENT

B&B SUB-DEPARTMENT EMPLOYEES

- | | |
|--------------------------|---------------------------|
| 1. Alvin McCormick (D&F) | 10. J. K. Dickson (D&F) |
| 2. Farris Givens (D&F) | 11. R. A. Hughes (D&F) |
| 3. Virgil Treadway (D&F) | 12. J. F. Rollins (D&F) |
| 4. Kenneth Loden (D&F) | 13. H. Hembree (D&F) |
| 5. Othel Carr (D&F) | 14. Robert Crawford (D&F) |
| 6. Claude Treadway (D&F) | 15. J. L. Holley (D&F) |
| 7. Arnel Green (D&F) | 16. E. L. Porter (D&F) |
| 8. Dallas Loden (D&F) | 17. Sidney F. Thomas (F) |
| 9. W. H. Albright (D&F) | |

TRACK SUB-DEPARTMENT EMPLOYEES

- | | |
|------------------------------|----------------------------|
| 18. John R. Williams (D&F) | 24. Johnny Honeycutt (D&F) |
| 19. Billy Ray Phillips (D&F) | 25. Solon Ingram (D&F) |
| 20. G. C. Hawkins, Jr. (D&F) | 26. J. T. Mahaney (D&F) |
| 21. Normie Bennett (D&F) | 27. E. C. Hood (D&F) |
| 22. Granville Bowman (D&F) | 28. Dock Bohana (D&F) |
| 23. Herbert Leffew (D&F) | 29. Leo Phillips (D&F) |

30. Thomas Dishman	(D&F)	48. H. J. Toler	(D&F)
31. F. C. Willoughby	(D&F)	49. W. C. Fickey	(D&F)
32. C. A. Searcy	(D&F)	50. Vernon Emmett	(D&F)
33. James Vaughn	(D&F)	51. Otis Patterson	(D&F)
34. Walter Ryan	(D&F)	52. J. M. Jones	(D)
35. L. J. Green	(D&F)	53. Hershel T. Felts	(D&F)
36. Baxter Herd	(D&F)	54. Walter Keys	(D&F)
37. Luna Oaks	(D&F)	55. W. D. Bayne	(D&F)
38. Armstrong Herd	(D&F)	56. U. S. Williams	(D&F)
39. Robert Bates	(D&F)	57. L. B. Wilson	(D&F)
40. Charlie Massey	(D&F)	58. Roy Higgins	(D)
41. Ernest Gamble	(D&F)	59. Kelly Phillips	(D&F)
42. Albert Strawther	(D&F)	60. G. C. McLean	(D&F)
43. Charlie White	(D&F)	61. Leonard Williams	(D&F)
44. Joe Crudup	(D&F)	62. J. W. Bates	(D)
45. J. D. Morris	(D&F)	63. W. O. Holley	(D&F)
46. William Vowell	(D&F)	64. Jake Broomfield	(D&F)
47. W. H. McLean	(D&F)		

NOTE: "D" indicates claim made for Decoration Day holiday of 1961. "F" indicates claim made for the Fourth of July holiday of 1961.

EMPLOYEES' STATEMENT OF FACTS: The Claimants named in the attachment to our Statement of Claim were the holders of regular assignments bulletined to work Mondays through Fridays of each week.

Each of the Claimants had established over 60 days' seniority prior to the subject holidays.

Each Claimant is an hourly rated employee.

Except for the claimants named in the next paragraph, each Claimant worked on 11 or more of the 30 calendar days immediately preceding each of the subject holidays.

Messrs. Alvin McCormick, Farris Givens, E. C. Hood, W. C. Fickey, Vernon Emmett, Walter Keys and U. S. Williams did not work on eleven of 30 calendar days immediately preceding each of the subject holidays. Mr. R. A. Hughes did not work on 11 of 30 calendar days immediately preceding the Decoration Day holiday of 1961, and Mr. E. L. Porter did not work on 11 or more of the 30 calendar days immediately preceding the Fourth of July holiday of 1961.

Although the Claimants were not assigned to work on the work days immediately preceding and/or following the subject holidays, none of them laid off of their own accord or failed to respond to a call.

The Carrier has refused to allow each Claimant eight hours' straight time pay for the Decoration Day and/or Fourth of July holidays of 1961.

The Agreement in effect between the two parties to this dispute dated September 1, 1942, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

Subject to the qualifying requirements applicable to other than regularly assigned employees contained in Section 3 hereof, all others who have been employed on hourly or daily rated positions shall receive eight hours' pay at the pro rata hourly rate of the position on which compensation last accrued to him for each of the above-identified holidays if the holiday falls on a work day of the work week as defined in Section 3 hereof, provided (1) compensation for service paid him by the Carrier is credited to 11 or more of the 30 calendar days immediately preceding the holiday and (2) he has had a seniority date for at least 60 calendar days or has 60 calendar days of continuous active service preceding the holiday beginning with the first day of compensated service, provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, non-compliance with a union shop agreement, or disapproval of application for employment.

The provisions of this Section and Section 3 hereof applicable to other than regularly assigned employees are not intended to abrogate or supersede more favorable rules and practices existing on certain Carriers under which other than regularly assigned employees are being granted paid holidays.

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.

Section 3. A regularly assigned employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid him by the Carrier is credited to the work days immediately preceding and following such holiday or if the employee is not assigned to work but is available for service on such days. If the holiday falls on the last day of a regularly assigned employee's work week, the first work day following his rest days shall be considered the work day immediately following. If the holiday falls on the first work day of his work week, the last work day of the preceding work week shall be considered the work day immediately preceding the holiday.

All others for whom holiday pay is provided in Section 1 hereof shall qualify for such holiday pay if on the work day preceding and the work day following the holiday they satisfy one or the other of the following conditions:

- (i) Compensation for service paid by the Carrier is credited; or
- (ii) Such employee is available for service."

(Exhibits not reproduced.)

OPINION OF BOARD: The holiday pay claims covered by this docket are for Decoration Day 1961 and/or the Fourth of July 1961 in behalf of 64 named employees who were laid off by Carrier prior to each of the above holidays.

Based on our decision in Award 14515, the following named Claimants met the necessary requirements under Article III of the August 19, 1960 Agreement to qualify for the Decoration Day 1961 holiday payment; No. 9 W. H. Albright, No. 10 J. K. Dickson, No. 12 J. F. Rollins, No. 13 H. Hembree,

No. 14 Robert Crawford, No. 15 J. L. Holley and No. 16 E. L. Porter and accordingly their claims will be sustained. All other named Claimants failed to meet the necessary qualifying requirements under Article III of the August 19, 1960 Agreement and accordingly their claims for the Decoration Day 1961 holiday payment are denied.

All named Claimants, except as noted below, met the necessary requirements under Article III of the August 19, 1960 Agreement to qualify for the Fourth of July 1961 holiday payment and accordingly their claims are sustained. Claimants No. 1 Alvin McCormick, No. 2 Farris Givens, No. 16 E. L. Porter, No. 27 E. C. Hood, No. 49 W. C. Fickey, No. 54 Walter Keys, No. 56 U. S. Williams, and No. 59 Kelly Phillips failed to meet the necessary qualifying requirements under Article III and accordingly their claims are 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 violated.

AWARD

Claims sustained to the extent prescribed in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1966.