



Award No. 14597
Docket No. MW-12516

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

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

(1) The Carrier violated the effective Agreement when it required Crossing Flagman N. L. Reedy to suspend work during and throughout his assigned work period on Thursday, November 26, 1959 and thereby reduced his work days for that particular work week to less than the five days guaranteed under the provisions of Rule 8 of Article V.

(2) Crossing Flagman N. L. Reedy now be allowed eight (8) hours of time and one-half pay account of the violation referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: Mr. N. L. Reedy is employed as a Highway Crossing Watchman at Main Street, Tupelo, Mississippi. He is regularly assigned to work Mondays through Fridays, including and holidays falling on any of those five days. He is an hourly rated employee.

During the afternoon of Wednesday, November 25, 1959, Mr. Reedy was advised that his position would be blanked the following day (Thanksgiving Day) and that he should perform no service on that day.

The Carrier allowed him eight hours of pro rata pay as Holiday pay for Thanksgiving Day but failed and refused to reimburse him for the loss of eight hours of time and one-half pay which he suffered when his work week for the week beginning November 23, 1959 was reduced below the guarantee provision of Rule 8, Article 5.

The Agreement in effect between the two parties to this dispute dated April 1, 1951, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: Claimant N. L. Reedy is regularly assigned Monday through Friday to Crossing Flagman position over Main Street crossing at Tupelo, Mississippi. Main Street crossing is approximately five blocks from the business district of the town and is located in a concentrated industrial area.

The industries in the area of the crossing mentioned above observed Thanksgiving Day holiday 1959 and consequently, the traffic over Main Street crossing on that day was negligible. There were no duties, service or operations necessary to be performed by claimant on such holiday and the Carrier laid in, or blanked claimant's position.

Claimant was paid five pro rata days for the week of November 23 through 27, 1959, although his duties and services were only required on four days of that week.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was regularly assigned as Crossing Flagman at Carrier's Main Street Crossing in Tupelo, Mississippi. His regular workweek was Monday through Friday, including any of seven designated holidays under the controlling Agreement between the parties which might occur during his assignment. Claimant was not required to work on Thanksgiving Day, Thursday, November 26, 1959, which occurred during his regular workweek. However, he was paid for eight hours at the pro rata rate of his regular assignment by Carrier for the holiday.

Petitioner contends that Carrier denied Claimant the right to work on November 26, 1959 without authority under Rule 8 of Article V of the Agreement between the parties, thereby reducing his workweek from five (5) days (40) hours) to four (4) days (32 hours) during the week in question. Claimant asks to be reimbursed for said loss of work at the punitive rate.

Petitioner relies on Rule 8 of Article 5 of the Agreement which in part provides as follows:

"The hours of employees covered by this rule shall not be reduced below eight per day for five days per week."

Petitioner seeks to invoke the provisions of Article II—Holidays of the National Agreement of August 21, 1954, to which Petitioner and Carrier are parties, inasmuch as the disputed day was a holiday.

Carrier's position is that the claim is without merit as Claimant received eight (8) hours pro rata pay for the holiday even though he performed no work in compliance with Carrier's decision to blank Claimant's position during said holiday.

The right of Carriers to blank holidays under Agreements similar to the one involved in this controversy has been recognized by this Board in many previous Awards. (Awards 13259, 11079 and 8539). Rule 8 of Article V of the controlling Agreement delineates the minimum hours per day and days per week of the position held by Claimant. The rule does not guarantee that employees will work on holidays which occur during their regular workweek but only that they will be compensated for the minimum hours of eight per day for five days per week.

Article II of the National Agreement of August 21, 1954 was not designed to compel Carriers to work employees on holidays and only when an employee works on a holiday is he entitled to payment at the time and one-half rate. (Awards 11079 and 13279.) Whether there was need for a Crossing

Flagman on the holiday is immaterial in the absence of a contractual obligation on the part of Carrier. Carrier exercised its prerogative to determine whether the position should be worked on the holiday and Claimant received his pro rata pay for the holiday on which he was not required to work.

Upon the basis of the foregoing facts and in accordance with prior Awards of this Board, we will deny the claim.

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 Employees involved in this dispute are respectively Carrier and Employees 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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of June 1966.