



Award No. 15142
Docket No. MW-13118

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD 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 holiday pay for January 2, 1961 to B&B Carpenter H. A. Schaffer.

(2) Mr. Schaffer now be allowed holiday pay for New Year's Day because of the violation referred to in Part (1) of this claim.

EMPLOYEES STATEMENT OF FACTS: Claimant Harry A. Schaffer was regularly assigned to the hourly rated position of Bridge and Building Carpenter in Crew B&B, with a work week beginning on Monday and ending on Friday.

Effective with the beginning of work on Monday, December 19, 1960, and continuing to the close of work on Friday, December 30, 1960, the foreman regularly assigned to Crew B&B 1 was on an annual vacation. (This position also had a work week beginning on Monday and ending on Friday.) The Claimant was required to temporarily suspend service on his regular assignment for the purpose of relieving the vacationing foreman. This temporary assignment expired at the close of work on Friday, December 30, 1960 and, effective at the same time, forces were reduced in Crew B&B 1. The Claimant, having been thereby simultaneously relieved of his temporary relief assignment and of his regular assignment in Crew B&B 1, displaced a junior employe in B&B Crew G and, with the remainder of Crew G, reported for service on the first work day thereafter, namely, on Tuesday, January 3, 1961. (Monday, January 2, 1961 was observed as a holiday.)

In the payroll report for the first half of January, 1961, the Foreman of B&B Crew G reported the time worked by the claimant for that period and also reported eight (8) hours of holiday pay for January 2, 1961. Neither the claimant nor his foreman was advised that holiday pay for January 2, 1961 would not be allowed. Then, when the claimant received his check on January

30, 1961, he found he was short eight (8) hours of pay. The claimant immediately notified his foreman, who, in turn, notified Local Chairman John W. Montgomery. The Local Chairman then, on February 25, 1961, wrote to the Auditor of Disbursements and Accounts at Chicago, Illinois and his letter was returned to him (with an indication that it was received on 2-28-61) with a note added to the bottom thereto reading:

"Feb. 28, 1961

Not allowed Holiday — was Foreman before Holiday — must be labor before Holiday — Foreman after Holiday.

/s/ W. C. Wilson, C.D.A.
S. Schremba — Tkpr."

(A photocopy is attached hereto as Employees' Exhibit A.)

Claim was then presented in writing under date of March 7, 1961 to the Carrier officer authorized to receive same. The claim was declined as were all appeals which had likewise been timely and properly handled.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments, and interpretations thereto is by reference made a part of the Statement of Facts.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Prior to December 19, 1960, Claimant Schaffer held a regular position as an hourly rated B&B Carpenter in Crew BB1.

The regularly assigned monthly rated foreman of Crew BB1 was scheduled for vacation from December 19 through December 30, 1960 and Claimant Schaffer was asked if he wished to work as foreman of Crew BB1 during the regular foreman's absence on vacation and he (Claimant Schaffer) agreed to do so.

Therefore, during the period December 19 through December 30, 1960 Claimant Schaffer was performing work of a temporary nature on the monthly rated foreman position in Crew BB1.

On January 3, 1961 Claimant Schaffer returned to service as an hourly rated B&B Carpenter, but in Crew G instead of Crew BB1.

Therefore, as of the holiday, January 2, 1962, Claimant Schaffer was a regularly assigned employe for holiday pay purposes but he did not, for reasons that will be fully explained in "Carrier's Position," qualify for nor is he entitled to holiday pay for January 2, 1961.

There is attached as Carrier's Exhibit A copy of letter written by Mr. S. W. Amour, Assistant to Vice President, to Mr. J. G. James, General Chairman, under date of May 11, 1961.

(Exhibits not reproduced.)

OPINION OF BOARD: The issues in this case, on procedure and on merits, are the same as those we have decided in Award 15141, between the

same parties. We will sustain the claim here on the same basis as we did in that case.

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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January 1967.