



Award No. 15417
Docket No. MW-14613

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

**THE NEW YORK, NEW HAVEN AND HARTFORD
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 (eight hours' pay at pro-rata rate) for the Memorial Day Holiday 1962 to Track Laborer Thomas Thornton. (Carrier's Docket 9369.)

(2) Thomas Thornton now be allowed eight hours' pay at the track laborer's straight time rate.

EMPLOYEES' STATEMENT OF FACTS: Mr. Thomas Thornton has established and holds seniority rights as a track laborer as of May 16, 1952 and he is an hourly rated employee.

As of May 14, 1962, the claimant was furloughed. His name and address were on file in the office of Track Supervisor A. F. Horan.

Compensation for service rendered the Carrier by the claimant was credited to not less than eleven (11) of the thirty (30) calendar days immediately preceding the May 30, 1962 Memorial Day holiday.

The claimant was available for service on the work day preceding and the work day following the Memorial Day holiday of 1962.

The Carrier failed and refused to allow the claimant eight (8) hours' pay at his pro rata rate for the Memorial Day holiday of 1962.

Claim was timely and properly presented and handled at all stages of appeal up to and including the Carrier's highest appellate officer.

The Agreement in effect between the two parties to this dispute dated February 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: Prior to May 14, 1962, Mr. Thomas Thornton, the claimant in this case, held assignment as track laborer in the Carrier's Maintenance of Way Department. He was employed under the jurisdiction of Track Supervisor A. F. Horan, Boston, Massachusetts.

Effective with the close of business on May 14, 1962, Mr. Thornton was furloughed in a force reduction.

The Brotherhood of Maintenance of Way Employees thereafter submitted claim that Mr. Thornton be allowed one day's pay for the holiday, May 30, 1962, under the provisions of the August 19, 1960 National Agreement, which is hereinafter referred to as the 1960 Agreement.

The Carrier denied the claim for holiday pay on the basis that claimant Thornton had not indicated in writing his desire to be considered available for service while in a furloughed status.

The claim in favor of Track Laborer Thornton was timely presented and appealed through the established avenues culminating in final handling of the matter by the undersigned who is the highest officer designated to handle such matters on the property. Attached in exhibit form are copies of the following documents:

Exhibit A — General Chairman Thomas Christensen's appeal to the undersigned, dated November 29, 1962.

Exhibit B — Carrier's final decision dated January 9, 1963.

A copy of the applicable Agreement between the parties is on file with your Board and is by reference made a part of this submission.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant, a regularly assigned track laborer, was furloughed account force reduction at close of work Monday, May 14, 1962. Claimant held seniority for more than 60 calendar days prior to the May 30, 1962, Memorial Day Holiday; and had compensation credited to eleven (11) or more days during the thirty (30) calendar days immediately preceding the holiday; and was "available for service" under Article III of the August 19, 1960 Agreement. Claim is for eight hours' pay at Claimant's straight time rate of pay for the holiday as an "other than regularly assigned employee."

The facts, rules and parties in this case, except the name of Claimant and the specific date involved, are basically the same as those dealt with in our Award 15377 (Engelstein). For the reasons stated therein, we will sustain the claim here.

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

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of March 1967.