

Award No. 15451
Docket No. CL-15905

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

KANSAS CITY TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5854) that:

(a) The Carrier violated the Agreement between the parties in that it did not compensate Mail Handler, H. R. Elven, properly in accordance therewith for work performed January 1, 1965, and;

(b) The Carrier shall pay to H. R. Elven the additional amount of 8 eight hours at the time and one-half rate of his position as of date of claim.

EMPLOYEES' STATEMENT OF FACTS: Claimant H. R. Elven performed work on his regular assigned position of Mail Handler on New Year's Day, January 1, 1965, which date was also his birthday, for which he was paid one pro rata day for his birthday holiday, one pro rata day for New Year's Day, and one day at punitive rate of time and one-half for 8 hours.

Friday, January 1, 1965, was a regular assigned work day, his regular assignment being Monday through Friday with Saturday and Sunday as rest days.

Claim was filed and appealed timely as per copies of the correspondence attached hereto as Employees' Exhibits 1 to 5. Conference was held June 8, 1965.

There is an Agreement between the parties effective October 1, 1942, amended and revised and reprinted as of June 1, 1961, copies of which have been furnished this Board. We request same be accepted in toto in evidence in this case from which we quote the following:

"RULE 43.

SUNDAY WORK - HOLIDAY WORK

* * * * *

(b) Holiday Work. Work performed on the following legal holidays, namely, New Year's Day, Washington's Birthday, Decora-

The Clerks' Organization filed a time claim on behalf of Claimant Elven for an additional day at time and one-half account working on a Legal Holiday which coincidentally was also Claimant's birthday. (Copy of Local Chairman Graham's letter dated February 3, 1965, attached as Exhibit No. 1.) Final appeal was made by General Chairman Schutty in his letter of April 28, 1965. (Copy attached as Exhibit No. 2.)

The claim was denied on the basis that payment allowed was proper under agreement rules and past practice.

An agreement between the Carrier and the Employees represented by the Clerks' Organization bearing an effective date of October 1, 1942, reprinted and revised on June 1, 1961, is on file with your Board and by this reference is made a part hereof.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue in this case as to the interpretation and application of Article II, Holidays, Section 6 (f) and (g) of the National Mediation Agreement executed November 20, 1964, was adjudicated by this Board in Award No. 15388, which involved the same parties as herein. For reasons stated in that Award we will deny the instant Claim.

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 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 did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1967.