



Award No. 15585
Docket No. CL-16056

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

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

**THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5904) that:

(a) Carrier violated the Clerks' Agreement when it failed to properly compensate Mail and Baggage Attendant E. A. Burns for work performed on January 2, 1965.

(b) E. A. Burns shall now be allowed eight hours' pay at time and one-half rate of his position for January 2, 1965, in addition to that paid for service performed on that date.

EMPLOYEES' STATEMENT OF FACTS:

1. Claimant E. A. Burns was the incumbent of Mail and Baggage Attendant Position No. 54, hours 3:30 P. M. to 11:30 P. M., relief days Thursday and Friday, rate \$19.8144 daily, plus subsequent increase of 9 cents per hour effective January 1, 1965.

2. As January 1 (New Year's Day) fell on Friday, one of the Claimant's rest days, the following day, January 2, 1965, was considered his holiday in accordance with Rule 56, Section 3, which reads as follows:

"Section 3. When one of the following holidays: namely, New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day or Christmas falls on a regular assigned day off duty, the following work day of a regular assignment will be considered the holiday for that assignment.

An employe to be eligible for pay under the above paragraph must have qualified for holiday pay under Section 2."

3. January 2, 1965 was also Claimant's birthday, and he was required to work eight (8) hours, for which he was compensated by the Carrier eight

hours' pay at time and one-half rate for working on the holiday. Claimant was also paid eight pro rata hours' holiday pay and eight pro rata hours' birthday pay, which was correct and not in issue here.

4. Claim that Mr. E. A. Burns should be paid an additional eight (8) hours at time and one-half rate account working on his Birthday, was filed on January 26, 1965, and, being declined, was timely appealed to Carrier's highest officer designated to receive and consider such appeals. Conference was held on June 25, 1965, and Carrier denied the claim by letter dated June 28, 1965.

Copies of all correspondence in connection with the claim are attached and identified as Employees' Exhibits A through J.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Claimant, E. A. Burns, held regular assignment as Mail and Baggage Attendant at New Haven, with rest days on Thursday and Friday. January 1, the New Year's Holiday, fell on Friday in 1965, and in accordance with the provisions of Rule 56, Section 3, of the Clerks' Agreement, the holiday, falling on one of Claimant's regularly assigned rest days, was carried over to his next regularly assigned work day, Saturday, January 2. Claimant worked his assignment on Saturday, January 2.

Friday, January 1, was Mr. Burns' birthday, and in accordance with letter agreement of January 15, 1965 (copy attached as Carrier's Exhibit A), the birthday holiday, falling on one of claimant's regularly assigned rest days, was carried over to his next regularly assigned work day, Saturday, January 2, 1965.

Mr. Burns was scheduled to work on Saturday, January 2, and did work. For that day he was paid:

8 hours pro rata for New Year's Holiday.

8 hours pro rata for his birthday holiday.

8 hours at punitive rate for service performed on the holiday.

The Organization is pressing this claim for payment of two straight time days' pay and two overtime days' pay—a total of forty hours' pay—for eight hours of service performed. Carrier has declined the claim for the second overtime day's pay on the basis that there is only one penalty payment required for service performed on holidays under Rule 56, Section 6, as amended by Article II, Section 6, of the November 20, 1964 Agreement.

Copy of the agreement and all supplements thereto between the parties are on file with your Board and are, by reference, made a part of this record.

(Exhibits not reproduced.)

OPINION OF BOARD: This dispute concerns payment due Claimant for service performed on a legal holiday which was also his birthday. Claimant did not elect to have another day considered as his birthday which was his right under Section 6(f), Article II of the November 20, 1964 Agreement.

The Board has previously dealt with and discussed the question of payment for work performed on a day which was, as here, both a birthday holiday and a legal holiday in Awards 14921, 14922 (Zumas); 15013, 15388, 15451 (Dorsey); 15398, 15401 (House); 15520 (Woody); and 15563 (Lynch).

We will follow the reasoning of those awards and deny the 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 the 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 26th day of May 1967.