



Award No. 15589
Docket No. CL-16234

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Harr, Referee

PARTIES TO DISPUTE:

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

THE BELT RAILWAY COMPANY OF CHICAGO

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5954) that:

1. Carrier violated the parties' Agreement when it failed to properly compensate Mary McIntyre for services performed on her birthday anniversary, February 22, 1965, which was also one of the designated holidays.
2. Carrier shall be required to pay Claimant Mary McIntyre a day's pay, at the time and one-half rate, in addition to that paid for service performed on February 22, 1965.

EMPLOYEES' STATEMENT OF FACTS: Claimant Mary McIntyre is the regular occupant of a seven day per week Train Clerk position, Monday through Friday, with assigned rest days of Saturday and Sunday.

On Monday, February 22, 1965, Washington's Birthday, which was also her birthday anniversary, Claimant was required to work her regular position in accordance with existing rules and practices thereunder. She was paid eight (8) hours at the pro rata rate as birthday pay, eight (8) hours at the pro rata rate as holiday pay and eight (8) hours at the 1½ time rate for working on a holiday. The Carrier failed and refused to pay her eight hours at the time and one-half rate for work performed on the birthday holiday.

On March 11, 1965, claim was filed with the Assistant Superintendent, Mr. J. Overbey, and was declined on April 22, 1965. Employees' Exhibit Nos. 1 and 2.

On May 11, 1965, the claim was appealed to the Superintendent, Mr. D. R. Turner and was declined on May 14, 1965. Employees' Exhibit Nos. 3 and 4.

On June 22, 1965, the claim was subsequently appealed to the Manager-Labor Relations, Mr. J. C. Sidor, highest authority for appeals on the property, and was denied on August 13, 1965. Employees' Exhibit Nos. 5 and 6.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Clerk Mary McIntyre did work on Washington's Birthday, February 22, 1965, which was also her birthday anniversary. For this work she was allowed eight hours' pay at the pro rata rate for her birthday holiday, eight hours' pay at the pro rata rate for the holiday, Washington's Birthday, and eight hours' pay at the time and one-half rate for working on the holiday. The organization contends that Clerk McIntyre should be paid an additional eight hours at the time and one-half rate or two time and one half days' pay for one eight hour tour of duty plus the two straight time days allowed.

OPINION OF BOARD: Claimant worked her regular position on a legal holiday, which was also her birthday. Claimant was paid eight hours at the pro rata rate as birthday pay, eight hours at the pro rata rate as holiday pay, and eight hours at the time and one-half rate for working on a holiday. This claim is for an additional eight hours' pay at the time and one-half rate for working on her birthday.

The same issue of the interpretation of Article II - Holidays, Section 6 (f) and (g) of the November 20, 1964, National Mediation Agreement has been before this Board in several recent dockets. It is clear that if an employee's birthday falls on a holiday, he can elect to celebrate his birthday on another day as set out in Article II, Section 6 (f).

We will deny the claim. See Awards 14921, 14922, 15013, 15388, 15401, 15451, 15520, and 15563.

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 Agreement was not violated.

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.

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