

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-5891) that:

(a) The Carrier violated the provisions of the Agreement between the parties of October 1, 1942, as amended and revised, and the National Mediation Agreement of November 20, 1964, when it denied the following Mail and Baggage Department employees the right to work on their birthday, which dates as shown were regularly assigned work days of their positions:

Joseph P. Vajdic	January 2, 1965
F. H. Richardson	January 7, 1965
J. L. Watts	January 2, 1965
Joseph Palmentere	January 2, 1965
B. E. Chambers	January 5, 1965
J. U. Condon	January 8, 1965
W. L. Behen	January 13, 1965
W. H. Vandivort	January 13, 1965
J. L. McCurnin	January 2, 1965
Donald Harris	January 5, 1965
W. E. Rittman	January 7, 1965
W. P. Reece	January 13, 1965
H. E. Weatherman	January 13, 1965
A. B. Wyatt	January 13, 1965

(b) The Carrier shall now be required to pay each of the claimants named a day's pay at time and one-half their respective daily rates for their birthday dates as listed in Claim (a).

"RULE 46.

(a) Paragraph 2. Nothing herein shall be construed to permit the reduction of days for the employees covered by Seniority Classes 1 and 2, Rule 1 below five (5) per week, excepting that this number may be reduced in a week in which holidays occur within the five days constituting the workweek by the number of such holidays.

(e) Holiday force reductions in Mail and Baggage Handler positions, Mail and Baggage Department when made, shall be on a seniority basis on a given tour and the positions will lose their identity on those days; that is, positions may be combined where necessary.

(f) In a situation where the originally posted cut-back of Mail and Baggage Handlers, Mail and Baggage Department, on a given tour on a holiday needs revision because of employees subsequently laying off on the holiday and the Carrier desires to call in additional employees, the senior, available regular assigned employees cut-back on the tour will be called."

On November 20, 1964, an agreement was negotiated on a national basis which covered the instant parties granting to the employees an additional day off with pay on each such employee's birthday. Article II-Holidays, of the November 20, 1964 Agreement, is attached as Exhibit 1.

On each of the dates, January 2, 5, 7, 8 and 13, 1965, as listed in the Statement of Claim, Mail and Baggage Department Employees whose birthdays fell on those dates were laid off in seniority order in accordance with Rule 46(e). Each Claimant, if he qualified under Section 6(c) of the Birthday Holiday Rule, Exhibit 1, received a basic day's birthday holiday pay for that day.

It is petitioner's contention that Claimants should have been permitted to work on the birthday holiday.

(Exhibits not reproduced.)

OPINION OF BOARD: This case involves the same parties, Agreements and presents the same pivotal issue as in Award No. 15598.

Claimants herein were regularly assigned employees, and each of their positions was worked on their respective birthdays.

For reasons stated in Award No. 15598, we will sustain the Claim in the instant case.

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 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 31st day of May 1967.