

Award No. 15732
Docket No. CL-16035

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, 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-5901) that:

(a) The Carrier violated the provisions of the Agreement of April 5, 1939, as amended and revised as of February 1, 1962, when it required Ushers A. L. Sherrell, John Hoyle, Elmer F. Danner and H. F. Farrell to lay off on February 22, 1965, Washington's Birthday, and;

(b) The Carrier compensate each claimant named above an additional day's pay at rate and one-half under the provisions of Rule 29 (a).

EMPLOYEES' STATEMENT OF FACTS: The facts of action in this case are not in dispute. The claimants were informed by the Carrier they were not to report for work Washington's Birthday, February 22, 1965. Absent the fact February 22, 1965, was a holiday under the Agreement in effect between the parties, claimants would have worked as it was a regular work day of their work week.

Claim was filed timely and appealed as evidenced by the correspondence between the parties attached hereto as Employees' Exhibits Nos. 1 to 4, both inclusive.

Notwithstanding the simplicity of the facts as stated above, the rules and practices which are in dispute are more complicated, and involve a long history of negotiation. Therefore, the Employees submit a chronological and brief history of the negotiations between the parties with particular reference to holiday work and pay as follows:

- (1) From the opening of the Union Station November 1, 1914, until January 10, 1934, Ushers (Red Caps) at the Union Station were employed by the Carrier subject to an implied employment contract between the individuals and the Carrier, the Carrier regulating pay, hours of service and working rules and regulations in the absence of a collec-

CARRIER'S STATEMENT OF FACTS: On Monday, February 22, 1965 (Washington's Birthday), Claimants who held regular Usher positions were, prior to February 22, advised that their positions would be blanked on the Holiday, and they would not be required to work on that day.

Each of the four Claimants qualified under Rule 29 (b-2) for holiday pay and, accordingly, were paid one basic day for the legal holiday.

Claim was presented on April 19, 1965, for an additional day at time and one-half, account not permitted to work on the legal holiday. The claim was handled in the usual manner and denied by the final appeals officer on June 9, 1965.

Attached as Exhibit 1 is a copy of General Chairman Schutty's letter of May 13, 1965, the final appeal of this claim.

Attached as Exhibit 2 is copy of letter dated June 9, 1965, which was final denial of the claim.

An agreement between the Carrier and the Ushers represented by the Clerks' Organization bearing an effective date of April 5, 1939, reprinted and revised as of February 1, 1962, is on file with your Board and by this reference is made a part hereof.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimants' positions were blanked by Carrier on a holiday, Washington's Birthday, for which they qualified and received pay under Rule 29 of the applicable Agreement. The issue to be resolved in this case is the same as that involved in Award 15731, which arose out of a similar controversy between the same parties. Accordingly, we find our Award in Award 15731 controlling in the instant dispute, and the claim will be denied.

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 Employes involved in this dispute are respectively Carrier and Employes 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 14th day of July 1967.

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