



Award No. 15810
Docket No. CL-16411

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

ATLANTA AND WEST POINT RAIL ROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6079) that:

(1) The Carrier violated the Clerks' Agreement effective May 1, 1942, as amended, when it arbitrarily and unilaterally made deduction from the salaries of E. D. Aycock, M. E. Long, J. C. Allen and S. S. Shepard for 150 minutes lost time each, while attending the funeral of Mr. Clyde T. Bowen, on November 16, 1965, thereby changing a long established practice of allowing monthly rated employees pay at their regular rates for time off account attending funerals of employees in the General Offices at Atlanta, Georgia.

(2) Mr. E. D. Aycock shall be reimbursed in the amount of \$7.71, Mr. M. E. Long shall be reimbursed in the amount of \$6.76, Mr. J. C. Allen shall be reimbursed in the amount of \$7.83 and Mr. S. S. Shepard shall be reimbursed in the amount of \$7.83.

EMPLOYEES' STATEMENT OF FACTS: For many years prior to the effective date of the current Agreement, effective May 1, 1942, there had existed a practice in the General Offices in Atlanta, Georgia of allowing employees to attend funerals of fellow employees without deduction in pay.

On November 16, 1965 Employees E. D. Aycock, M. E. Long, J. C. Allen and S. S. Shepard attended the funeral of Clerk Clyde T. Bowen and lost approximately two hours and thirty minutes time as result thereof. For the first time in many years all of the above employees' salaries were deducted in the amounts shown in the claim above, and in consequence thereof, the Vice General Chairman presented a claim to General Auditor J. E. MacCarthy under date of December 3, 1965. Copy of this claim, which is self explanatory, is hereto attached and identified as Employees' Exhibit No. 1.

December 16, 1965, General Auditor J. E. MacCarthy, under whose supervision the claimant employees worked, declined the claim and alleged that the past practice which allowed such payments had been wiped out when the

no consistent practice or custom in this regard relating to these claimants it must be held that the claim is without merit."

As previously indicated, for many years Carrier has been most generous in permitting employees to absent themselves from work without loss of pay to attend funerals of fellow employees regardless of the fact that such deceased fellow employees may or may not have worked in their respective departments. In the instant case Claimants were not in the same department as the deceased employee. Such requests were usually, but not always, granted, based entirely on the requirements of the service. Employees desiring to be off under these conditions would, of necessity, seek and receive permission before leaving their respective assignments during working hours.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimants, clerks in Carrier's general office, during work hours, attended a funeral of an employee thereof, though in a different department, and deductions were made in their pay therefor.

The record discloses that a practice had been followed on the property whereby employees, with permission of their department head, the general auditor in this case, following request made through their chief clerk, were allowed to attend such funerals with pay. From the record, it appears that Claimants simply advised their chief clerk and thereafter went to the funeral without having the permission of the general auditor. As a result, Claimants did not meet the "burden of proof" that they had followed the practice on the property. See, Award 10636 (La Belle).

It is abundantly clear that the Carrier did not violate the Agreement or the practice hereinbefore described.

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 20th day of September 1967.

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