

Award No. 15911
Docket No. CL-16151

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5905) that:

1. Carrier violated the Clerks' Agreement when, at Kansas City, Missouri, on March 29, 1965, it used C. Lispi, Open Item Clerk, from 8:00 A.M. to 11:40 A.M. to perform work on Statement Clerk position, which was the regular assignment of Mrs. Josephine McConiff, Statement Clerk, who was off on her Birthday holiday, instead of calling Mrs. McConiff to perform the duties of her position as the incumbent. Carrier's action was in violation of Article II, Section 6 (g) of the November 20, 1964 National Agreement and Rule 25 (e) of the basic Agreement.

2. Carrier shall be required to compensate Clerk Mrs. Josephine McConiff for 3 hours and 40 minutes at the punitive rate of \$4.0575 per hour, amount \$14.88, for March 29, 1965, to which she was entitled under the provisions of the above cited rules.

EMPLOYEES' STATEMENT OF FACTS: At Kansas City, Missouri, in the Carrier's Local Freight Office, the clerical force on the claim date consisted of the following positions:

Number and Title of Position	Assigned Hours From To	Meal Period	No. Days signed Per Rest	
			Week	Days
1. Cashier	8:30AM- 5:15PM	12:30PM- 1:15PM	5	Sat&Sun
2. Asst. Cashier	7:30AM- 4:30PM	12:00PM- 1:00PM	5	Sat&Sun
4. Asst. Cashier	8:00AM- 4:45PM	12:00PM-12:45PM	5	Sat&Sun
7. Cashier Clerk	8:00AM- 4:45PM	12:00PM-12:45PM	5	Sat&Sun
10. Chief Clerk	8:00AM- 4:45PM	12:00PM-12:45PM	7	Sat&Sun

OPINION OF BOARD: The facts of record indicate that the Claimant was a regularly assigned employee whose birthday fell on a work day of her work week. The work involved the compilation of an X-23 Report, which is part of Claimant's assignment and, in this instance, was performed by another employee. The claim, substantively speaking, is that claimant should have been used to work her position on her birthday.

Award 15227 (Hall) is directly in point, the pertinent portion of which reads as follows:

"As on legal holidays, equally applicable to an employee's birthday, the Carrier is privileged to blank the employee's assignment that day in whole or in part (Award 7136), but when, as here, Carrier finds it necessary to fill the employee's position on his birthday, he is entitled to be used. Award 7134."

We agree with the language of the above-cited award, and will sustain 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 Agreement was violated.

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 October 1967.