



Award No. 16328
Docket No. CL-16856

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**

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6163) that:

1. Carrier violated the Clerks' Agreement when it abrogated a long-standing past practice in its General Offices at St. Louis, Missouri, by denying its employees who were veterans of the various wars, time off, under pay, in the afternoon of Veterans' Day, November 11, 1965, to attend the Veterans' Day celebrations and parade in the downtown area of the City, thereby changing the working conditions of such employees without agreement with the Clerks' Organization.

2. Carrier shall be required to reinstate the past practice of permitting employees who are veterans of the various wars, time off to attend the Veterans' Day celebrations and parade in the afternoon on Veterans' Day, without loss in pay.

3. Carrier shall be required to pay each of the Claimants for Veterans' Day, November 11, 1965, as set out in the following Claim Statements for the amounts shown.

Name of Claimant	Amt. of Time Claimed	Straight Time Hourly Rate	Amt. of Claim
Robert F. Tefft	3 hrs. 40 min.	\$3.1325	\$11.48
Robert A. Bradley	4 hrs.	\$3.1325	12.53
Robert Spreckelmeyer	3 hrs. 40 min.	\$3.1325	11.48
Jerome A. Meyer	3 hrs. 40 min.	\$3.1325	11.48
James P. Devlin	3 hrs. 40 min.	\$3.1325	11.48
Julius G. Seidel	4 hrs.	\$3.08	12.32

The facts and our position were correctly set forth to you in our letter of February 18, 1966. There exists no basis for changing the decision given you in that letter declining the claim.

Yours truly,

/s/ B. W. Smith"

OPINION OF BOARD: This claim is based solely upon Carrier having allowed veterans to take off with pay, for more than forty (40) years' duration on November 11 to attend the Veterans' Day parade. The record discloses that same was granted only after permission was requested and obtained. Carrier thereby retained its managerial prerogative in the matter and there were no rights established in the form of past practice. Distinguish Award 22, Special Board of Adjustment No. 564 (Dolnick), where the cashing of payroll checks was allowed over a long period of time but without permission being first obtained on each occasion; Award 13623 (Hutchins); Award 13894 (Bailer); Award 14532 (Perelson); and Award 15414 (McGovern).

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 by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of May 1968.