



Award No. 16361
Docket No. CL-16752

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6112) that:

(a) Carrier violated the Clerks' Agreement at Carbondale, Illinois, when on Friday, January 1, 1965, a legal holiday, claimant's rest day and claimant's birthday, it failed and refused to properly compensate B. R. Miles for time worked.

(b) Carrier shall now compensate Clerk B. R. Miles, \$29.76 for eight (8) hours' pay at the time and one-half rate for work performed on a legal holiday, in addition to compensation previously paid him for work performed on Friday, January 1, 1965.

(c) Carrier shall now compensate Clerk B. R. Miles, \$29.76 for eight (8) hours' pay at the time and one-half rate for work performed on his regular assigned rest day, in addition to the compensation previously paid him for work performed on Friday, January 1, 1965.

EMPLOYES' STATEMENT OF FACTS: Claimant B. R. Miles is the regular occupant of a relief position in the Baggage Department, Carbondale, Illinois, with assignment as follows:

Title	Hours	Rate	Assignment
Laborer	8:00 PM to 5:00 AM	\$2.48 per hour	Saturday
Laborer	8:00 PM to 5:00 AM	2.48 per hour	Sunday
Laborer	8:00 PM to 5:00 AM	2.48 per hour	Monday
Laborer	8:00 PM to 5:00 AM	2.48 per hour	Tuesday
Foreman	10:00 PM to 6:00 AM	21.32 per day	Wednesday
	Rest Day		Thursday
	Rest Day		Friday

On Friday, January 1, 1965, New Year's Day, one of the designated holidays, also claimant's birthday and claimant's rest day, claimant was called in seniority order to fill a vacancy on the 8:30 P. M. laborer's position, which was not part of his regular assignment.

Payroll records indicate that for the service performed on Friday, January 1, 1965, claimant was compensated eight (8) hours' pay, \$19.84, pro rata rate, as birthday pay, and eight (8) hours' pay, \$29.76, time and one-half rate, for working on his birthday.

Claim was filed for eight (8) hours' pay at the time and one-half rate for work performed on a legal holiday and eight (8) hours' pay at the time and one-half rate for work performed on an assigned rest day, with Train Master W. R. Bowie on February 3, 1965. See Employees' Exhibits Nos. 1-A, 1-B, 1-C, and 1-D. On February 23, 1965, claim was appealed to Superintendent H. R. Koonce. See Employees' Exhibits Nos. 1-E, 1-F, and 1-G. March 10, 1965, claim was appealed to Director Labor Relations W. J. Cassin as evidenced by Employees' Exhibits Nos. 2-A through 2-F.

The dispute was discussed with Management in conference May 14, 1965, but not resolved.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: On January 1, 1965, Mr. B. R. Miles, Carbondale, Illinois, was called and used to fill a vacancy on a position of Baggage Room Laborer. By "accident of the calendar", this day happened to be a legal holiday, the employee's birthday, and his rest day. The employee was paid one overtime day.

Reading rest day rules, holiday rules, and birthday rules in a vacuum as if they were separate provisions having nothing to do with each other, and as if such rules had nothing to do with reality, the union filed a claim for two additional overtime days.

The claim was declined by the company, appealed through regular channels by the union, discussed in conference and submitted to the Board for resolution. The agreements pertinent herein are by reference made part of the record in this dispute.

OPINION OF BOARD: In a prior dispute involving these same parties this Board has ruled that an employee working on a day that is both his assigned rest day and a legal holiday is entitled to two payments at the time and one-half rate, one payment under the holiday rule, and one under the rest day rule. Awards 15361, 15362 (Lynch). Also see Awards 16250 (Friedman), 16127 (House), 15527 (Harr), 15450 (Dorsey), and others. On the other hand, the Board has consistently ruled that only one payment is due under the legal holiday rule and the birthday holiday rule. See Award 16035 (Ives) and the numerous Awards cited therein.

Claimant worked eight hours on a day that was not only his rest day, but also a legal holiday and his birthday. He has been allowed one payment of eight hours at time and one-half. He claimed three separate payments of eight hours at time and one-half. Under prior rulings he should be allowed two payments of eight hours at time and one-half; therefore, his claim is

sustained to the extent of one additional payment of eight hours at time and one-half.

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 as indicated in the Opinion.

AWARD

Claim sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of June 1968.