



Award No. 16533
Docket No. MW-16897

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Milton Friedman, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier did not fully and properly compensate Crossing Flagman Otis Umphress for services performed on December 25, 1965 and January 1, 1966. (Carrier's File M-1146-66)

(2) Crossing Flagman Otis Umphress be allowed, in addition to payment received, an additional sixteen (16) hours of pay at his time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: The claimant was regularly assigned to work Monday through Friday of each week. Saturdays and Sundays were assigned rest days. Saturday, December 25, 1965 was the Christmas Holiday and Saturday, January 1, 1966, was the New Year's Holiday.

Because the extra relief crossing flagman was unavailable to work the 11:00 P.M. to 7:00 A.M. shift at Market Street, Ottumwa, Iowa, on December 25, 1965 and January 1, 1966, the claimant was required to work eight (8) hours on each of said dates.

Although the claimant was entitled to pay at his time and one-half rate for working each of the holidays and an additional payment at his time and one-half rate for working on each of his assigned rest days, the claimant received only one such payment for each of said dates.

Claim was timely and properly presented and handled by the Employees at all stages of appeal up to and including the Carrier's highest appellate officer.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: During the period involved in this case, Claimant Otis Umphress was a regular relief crossing flagman working the swing shift Monday through Friday at the Market Street crossing at Ottumwa, Iowa. On Saturday, December 25, 1965 and Saturday, January 1, 1966, the extra relief crossing flagman did not report for duty and Claimant was called to work the 11:00 P.M. to 7:00 A.M. shift on these two dates. As noted, both of these dates were legal holidays which fell on claimant's rest days. For the service performed on these two dates, claimant received eight hours at the time and one-half rate each date. The claim presently before this Board is for an additional eight hours at time and one-half for the two dates in question or a total of 16 hours at the penalty rate.

OPINION OF BOARD: The Claim, the Agreement, the past practice, and the arguments are similar in this case to those in another case recently decided by this Board involving the same Organization and another Carrier. (Award No. 16431.)

Further consideration discloses no basis for altering the decision rendered in No. 16431.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 1st day of August 1968.