



Award No. 16628
Docket No. CL-17058

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

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

**KENTUCKY AND INDIANA TERMINAL
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6289) that:

A. Carrier violated the provisions of the Agreement extent between the parties when it refused to properly compensate Mr. Robert J. Wagner, Key Punch Operator at Louisville, Kentucky for service on November 24th, 1966.

B. Carrier shall now be required to compensate Mr. R. J. Wagner for 8 hours at the rate of time and one-half for service performed on Thanksgiving Day in addition to the 8 hours at time and one-half received for working his rest day of November 24, 1966.

EMPLOYES' STATEMENT OF FACTS:

1. Claimant R. J. Wagner was the incumbent of Relief Key Punch Operator Clerk position, hours various, relief days Thursday and Friday, rate \$22.66 per day.

2. On November 24, 1966, Thanksgiving Day and also Claimant's rest day, the Carrier required him to work eight (8) hours. The Carrier paid Claimant one day at time and one-half for working.

3. The claim filed in behalf of Mr. Wagner that he should be paid an additional day (8) hours at time and one-half his rate of \$22.66 was filed December 6, 1966 and was declined; a timely appeal to Carrier's highest officer designated to receive and consider such appeal were made. Conference was held on March 9, 1967; however, Carrier first denied claim by letter on February 17, 1967. Copies of all correspondence in connection with the claim are attached and identified as Employees' Exhibit A through G.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The Carrier avers the basic agreement between the parties signed October 7, 1966, and made effective November 1, 1966, was in effect on the date the claim arose, as well as the vacation relief memorandum covering vacations for the calendar year of 1967, dated December 5, 1966, a copy of which is attached as Carrier's Exhibit 1.

Mr. Robert Wagner, claimant herein, at the time the claim arose was assigned to the Relief Clerical Machine Operator position, with rest days Thursday and Friday.

On Thursday, November 24, 1966, Thanksgiving Day, at 10:45 P. M., just 15 minutes before his starting time, the regularly assigned 11 P. M.-7 A. M. Clerical Operator, Mr. James Canter, reported to Assistant Chief Rate Clerk Montgomery that he would be unable to protect his assignment that evening because of illness. Claimant Wagner was called to fill the unscheduled vacancy. For the service performed on the 11 P. M. to 7 A. M. shift, Mr. Wagner claimed on his time card a total of 16 hours at the overtime rate. On December 1, 1966, Mr. Wagner was notified that his time card was changed from 16 hours at the overtime rate for November 24, 1966, to read 8 hours at the overtime rate.

Under date of December 6, 1966, the Local Chairman filed claim in behalf of Mr. Canter with the General Freight Agent, the appropriate department head, Carrier's Exhibit 2. The claim was declined by letter to the Local Chairman from the General Freight Agent on January 4, 1967, Carrier's Exhibit 3.

Under date of February 8, 1967, the General Chairman appealed the claim to the Director of Labor Relations, Carrier Exhibit 4. Conference was held on this matter on March 9, 1967. Subsequent to the conference the General Chairman addressed another letter to the Director of Labor Relations dated March 21, 1967, Carrier's Exhibit 5; the Director of Labor Relations on April 7, 1967, denied the claim, Carrier's Exhibit 6.

Under date of May 1, 1967, the Executive Secretary of the Third Division advised this action was instituted by the Union and Carrier's reply was to be filed by May 29, 1967.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was a Relief Clerical Machine Operator occupying a position with rest days Thursday and Friday. On Thanksgiving Day, Thursday, November 24, 1966, Claimant was assigned to work an eight hour shift for which he was paid eight hours at the time and one-half rate. He claims pay for an additional eight hours at the time and one-half rate, because he worked the eight hours on both his rest day and on his contract holiday.

The basic issue involved here has been decided by us repeatedly in favor of the claim in most prior awards dealing with the issue, starting with Award 10541 (Sheridan), and including a number of awards by this Referee (15398, 16099, 16100, 16101, 16127 and 16495). We find no reason in this case to depart from our decisions on the issue in those cases.

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 11th day of October 1968.