

Award No. 16687
Docket No. CL-16811

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

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

THE DAYTON UNION RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6139) that:

(1) Carrier violated the Clerks' Agreement when it failed to properly compensate Robert Thomas, Baggage man, for work performed on December 25, 1965, and January 1, 1966, two holidays which were also Claimant's rest days.

(2) Carrier shall now be required to compensate Robert Thomas for an additional eight hours' pay at punitive rate of \$23.31 per day for December 25, 1965 (Christmas) and January 1, 1966 (New Years).

EMPLOYES' STATEMENT OF FACTS: The agreement between the parties to this dispute is on file with your Board and by this reference is made a part hereof.

Mr. Robert Thomas, claimant, was employed by The Dayton Union Railway Company on July 10, 1939 and has continued in the steady employment as baggage man since that date.

Mr. Thomas holds a regularly assigned baggage man position having a work week of Monday through Friday inclusive. Rest Days are Saturday and Sunday. Rate of pay \$23.31 per day. Hours of service 5:00 A. M. to 1:30 P. M.

On or about December 24, 1965, Carrier notified claimant to report for work on Saturday, December 25, 1965 (Christmas). On or about December 31, 1965, Carrier notified claimant to report for work on Saturday, January 1, 1966 (New Years). Mr. Thomas reported as instructed and worked eight (8) hours on each date. Both dates were claimant's regularly assigned days of rest, and both dates were also National Holidays.

When claimant received his pay draft he discovered that he had only been paid a gross amount of eight (8) hours on each date at punitive rate, or twelve (12) hours' pay at pro rata rate. When claimant brought the mat-

that the Carrier reconsider its position. A copy of that letter is attached as Carrier's Exhibit C. Under date of July 13, 1966, the Superintendent-Agent reaffirmed denial of the claim. A copy of that letter is attached as Carrier's Exhibit D.

Therefore, so far as the Carrier is able to anticipate the basis for the Employees' claim, the question to be decided in this dispute is whether an employe who performs eight (8) hours' service on a day which is his rest day and is one of the seven specified holidays, is entitled to simultaneous eight (8) hours payments and at the time and one half rate for such service under the provisions of the Controlling Agreements.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant, a regularly assigned baggageman with a work week of Monday through Friday and Saturday and Sunday as rest days, was, on Saturday, December 25, 1965 and again on Saturday, January 1, 1966, called to work due to relief not being available. These days, in addition to being assigned rest days for the Claimant, were holidays (Christmas Day and New Year's Day, respectively) as specified in Rule 22 (b). For service performed each day, Claimant was paid eight hours at the time and one-half rate, and he claims an additional payment of eight hours at the time and one-half rate for each day.

We have reviewed the numerous Awards on the issue here involved, deciding claim such as this in favor of the Employees, and in the interest of "Stare Decisis" we are compelled to follow them. The Claim is, therefore, sustained.

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 by the Carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of October 1968.

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