

Award No. 16959
Docket No. CL-17257

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David H. Brown, Referee

PARTIES TO DISPUTE:

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

**SOUTHERN PACIFIC COMPANY (PACIFIC LINES)
(Former Pacific Electric Railway Company)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6296) that:

(a) The Pacific Electric Railway Company violated the Clerks' Agreement when it denied sick leave allowance to Mr. A. J. Bufano for date of May 21, 1965.

(b) The Pacific Electric Railway Company shall now be required to allow Mr. A. J. Bufano one day's sick pay for May 12, 1965.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement bearing effective date August 1, 1955, including subsequent revisions (hereinafter referred to as the Agreement) between the Pacific Electric Railway Company (hereinafter referred to as the Carrier), and its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees (hereinafter referred to as the Employees), which Agreement is on file with this Division of the Board and by reference thereto is hereby made a part of this dispute.

Mr. A. J. Bufano (hereinafter referred to as the Claimant), was off duty due to illness on May 20 and 21, 1965, and claimed sick pay for each of these dates. Claim was denied by Mr. R. C. Hollinger, Auditor, District Timekeeping Bureau, who advised Claimant as follows:

"Los Angeles
June 10, 1965

Mr. A. J. Bufano, Clerk (2)
% Mr. W. E. Craig, Y.M.
P. E. Railway - 8th St. Yd. Office

Your claim for sick allowance May 21, 1965 is in excess to 10 days allowance for the year of 1965 and is denied.

OPINION OF BOARD: The facts of this case are not in dispute. Effective April 1, 1965, Rule 54 (entitled Sick Leave) of the applicable agreement was amended. Both before and after the amendment the clear language of the rule allowed 10 days sick leave per calendar year. This claim is based on the novel argument that amending the rule as of April 1 somehow operated to make a new calendar year commence as of such date. The contention is so specious as to render refutation thereof wholly unnecessary. The plain provisions of the rule allow 10 days sick leave per calendar year. Mr. Bufano is not entitled to 11.

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 Employee involved in this dispute are respectively Carrier and Employee 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 20th day of February 1969.