



Award No. 16986
Docket No. TE-16316

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Morris L. Myers, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Missouri-Kansas-Texas Railroad, that:

1. Carrier violated the Agreement between the parties when it failed and refused to properly compensate Mrs. C. E. Spears, Denison, Texas, for service performed on May 31, 1965 and July 5, 1965, holidays, which were also assigned rest days.
2. Carrier violated the Agreement between the parties when it failed and refused to properly compensate Mr. C. J. David, Pryor, Oklahoma, for service performed on May 31, 1965, a holiday which was also an assigned rest day.
3. Carrier shall now be required to compensate each claimant named above an additional eight (8) hours' pay at the time and one-half rate for each named date.

EMPLOYES' STATEMENT OF FACTS: The Agreement between the parties, effective September 1, 1949, as amended and supplemented, is available to your Board and by this reference is made a part of this submission.

The dispute presented here involves three claims involving an identical issue. Each claim was handled separately in the usual manner on the property. All were discussed in conference on August 31, 1965.

For service performed on each of the claim dates, each Claimant was allowed payment for eight hours at the time and one-half rate for service performed on a rest day. Since each of the claim dates was also a holiday, each of the Claimants properly claimed an additional eight hours' pay at the time and one-half rate. Carrier has refused to allow the holiday pay.

The facts are not in dispute. The issue presented here is whether the Carrier shall be required, in accordance with the appropriate Agreement rules,

May 31, 1965, was the day observed as the Memorial Day holiday for the year 1965, and Monday, July 5, 1965, was the day observed as the Fourth of July holiday for the year 1965. Mrs. Spears worked on both May 31 and July 5, for which she was paid eight hours at the time and one-half rate for each day, and the claims presented by the Organization in her behalf are for an additional day at the time and one-half rate for Monday, May 31, 1965 and Monday, July 5, 1965.

The three claims here involved were presented and appealed as shown in the attached Exhibits A, B and C, and were discussed in conference on the property on August 31, 1965, after which Carrier's previous separate declarations of the claims were reaffirmed in the undersigned's letter of October 20, 1965, copy of which is in each of the attached Exhibits.

The current Agreement between the parties, No. DP-190, effective September 1, 1949, with rates of pay effective February 1, 1951, is on file with the Third Division, National Railroad Adjustment Board.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant C. E. Spears was assigned to a position having a work week of Wednesday through Sunday and rest days of Monday and Tuesday. Monday, May 31, 1965, was the day observed as the Memorial Day holiday for the year 1965, and Monday, July 5, 1965, was the day observed as the Fourth of July holiday for the year 1965. Mrs. Spears worked on both May 31 and July 5, for which she was paid eight hours at the time and one-half rate for each day, and the claims presented by the Organization in her behalf are for an additional day at the time and one-half rate for Monday, May 31, 1965 and Monday, July 5, 1965.

Claimant C. J. David was assigned to a position having a work week of Wednesday through Sunday and rest days of Monday and Tuesday. Monday, May 31, 1965, was the day observed as the Memorial Day holiday for the year 1965 and was also one of Mr. David's rest days. Mr. David worked on May 31, 1965, for which he was paid eight hours at the time and one-half rate, and the claim presented by the Organization in his behalf is for an additional day at the time and one-half rate.

Carrier concedes that the rules and facts, as well as the arguments advanced by the Organization, are identical with those involved in Award 10541. It argues, however, that the more comprehensive record herein, and particularly that portion relating to the established practice on its property, would dictate a different result than that obtained in Award 10541.

The cited award has been followed in numerous subsequent awards, among the latest being Award Nos. 16785, 16797, 16801 and 16803, wherein were advanced the very arguments advanced herein. We see no reason to depart from that line of authority. The claims will be 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.

AWARD

Claims sustained.

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.