



Award Number 17351

Docket Number CL-17801

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Murray M. Rohman, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAM-
SHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND
STATION EMPLOYES**

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6446) that:

- 1) Carrier violated the Clerks' Rules Agreement at St. Paul, Minnesota, when it failed to properly compensate employee T. E. Fontaine for work performed on December 26, 1966, which was a holiday, as well as one of his assigned rest days.
- 2) Carrier shall now be required to compensate employee T. E. Fontaine an additional eight (8) hours at the time and one-half rate of pay of the Caller-Clerk Position 1424 for work performed on Monday, December 26, 1966.

EMPLOYEES' STATEMENT OF FACTS: Employee T. E. Fontaine is the regularly assigned occupant of Caller-Clerk Position 1424 at St. Paul, Minn. in Seniority District No. 28. His assigned hours are from 7:59 A.M. to 3:59 P.M. with rest days of Monday and Tuesday.

Caller Clerk Position 1424 is a 7-day position, with Monday and Tuesday rest days, which are included in a regularly assigned relief position.

On Monday, December 26, 1966, which was one of his regularly assigned rest days, and also one of the recognized holidays, i. e., Christmas, employee Fontaine was called and used to fill Position 1424, and was paid eight hours at the time and one-half rate for work performed on Position 1424 on his rest day, December 26, 1966.

Claim for an additional 8 hours pay at the time and one-half rate of Caller-Clerk Position 1424 was filed with Agent P. F. Mueller by employee Fontaine on December 26th, 1966 and was declined by him on December 28, 1966. See Employees' Exhibit "A".

Claim was appealed to Mr. N. H. McKegney, Superintendent, on February 21, 1967 and to Mr. S. W. Amour, Vice President-Labor Relations on May 11, 1967 and was declined by each in turn.

Claim was discussed during conference on November 10, 1967 and no settlement reached.

Time limits in this case were extended by agreement between the parties for a period of thirty days.

(Exhibits not reproduced)

CARRIER'S STATEMENT OF FACTS: Claimant T. E. Fontaine is the regularly assigned occupant of Caller-Clerk Position No. 1424 at St. Paul, Minnesota, which is assigned 7:59 A.M. to 3:59 P.M., Wednesday through Sunday with Monday and Tuesday as assigned rest days.

The Christmas holiday, December 25, in the year 1966, fell on a Sunday. Accordingly, Monday, December 26, 1966 was for all intent and purposes, the Christmas holiday in the year 1966 and throughout this submission will be referred to as the Holiday.

On Monday, December 26, 1966, one of Claimant Fontaine's rest days (and coincidently a holiday), the Carrier found it necessary to have Claimant Fontaine work his regularly assigned position, No. 1424, during his regularly assigned hours, i.e., 7:59 A.M. to 3:59 P.M. For such service on his rest day, which was coincidently a holiday, Claimant Fontaine was properly paid eight hours at the time and one-half rate for working such day, i.e., Monday, December 26, 1966, in accordance with schedule rules and a mutually recognized past practice of long standing.

Attached hereto as Carrier's Exhibit "A" is a copy of a letter written by Mr. S. W. Amour, Vice President-Labor Relations to Mr. H. C. Hopper, General Chairman, under date of June 14, 1967.

(Exhibits not reproduced)

OPINION OF BOARD: The issue before us is whether an employee who is required to work his assigned position on a rest day, which also is recognized as a National holiday, is entitled to receive compensation at premium rates for both the rest day and the holiday.

This question has been previously considered by distinguished Referees and answered in the affirmative. In support of this principle, we need merely cited Award No. 15754 (Miller) involving the same parties; and also Award No. 14138 (Rohman) on the identical issue, but on a different property. However, as added emphasis, if necessary, we would include Award Nos. 10541, 10679, 11454, 11899, 12453, 12471, 14489, 14528, 14977, 14978, 15000, 15052, 15144, 15226, 15340, 15361, 15362, 15376, 15450, 15527, 15528, 15531, 15553 and 17350.

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.

A W A R D

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 31st day of July 1969.