



Award Number 17578

Docket Number TE-16885

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Chicago & Illinois Midland Railway, that:

1. Carrier violated the terms of an agreement between the parties hereto when it failed and refused to properly compensate G. R. Hinrichs for service performed on February 22, 1966, Washington's Birthday, a holiday, which was also one of the rest days of the position to which assigned.
2. Carrier shall, because of the violation set forth above, compensate G. R. Hinrichs for eight (8) hours at the time and one-half rate, in addition to the amount he has been paid, for service performed on February 22, 1966.

EMPLOYEES' STATEMENT OF FACTS: An agreement between the Chicago & Illinois Midland Railway Company, hereinafter referred to as Carrier, and its employees in the classes specified therein, hereinafter referred to as Employees, represented by the Transportation-Communication Employees Union (formerly The Order of Railroad Telegraphers), hereinafter referred to as Union, effective November 1, 1946, as amended and supplemented, is available to your Board, and by this reference is made a part hereof.

The issue here is, has Carrier bound itself by said Agreement to pay compensation under two (2) rules to an employee who is required to work on one of his assigned rest days, which is also one of the seven (7) national holidays covered by the Agreement?

This identical issue under the same rules and factual circumstances obtaining in the confronting dispute has been presented to your Honorable Board by this Union on at least eight (8) prior occasions, and your Board has in each instance supported the position of the Employees in these cases. See Awards 15144 (Hamilton), 14138 (Rohman), 12471 (Kane), 12453 (Semp-liner), 11899 (Hall), 11454 (Miller), 10679 (Moore), 10541 (Sheridan). In addition to the awards cited similar cases covering the same issue have been submitted to your Board by another non-operating organization, with agreements containing identical or essentially identical rules, resulting in the following sustaining awards:

to Holiday Pay. We have allowed you 8 hours at time and one-half for working your rest day on February 22, 1966.

/s/ D. C. ADAMS

D. C. Adams

JRO: gwb"

By letter dated June 2, 1966 to Supt. J. K. Arnish (EXHIBIT "A"), TCEU General Chairman Brown advised he disagreed with Mr. Adams' decision and was appealing it.

Conference with the Superintendent and the General Chairman was arranged and held on July 15, 1966. The claim was declined by Superintendent's disposition dated July 21, 1966, attached as EXHIBIT "B"

By letter dated September 2, 1966 to Mr. Arnish (EXHIBIT "C"), the General Chairman advised of his disagreement with the superintendent's decision and of appeal to the Manager of Personnel.

Conference with the Manager of Personnel was arranged and held on September 16, 1966 at which time those in attendance discussed the contentions of the parties, particularly the carrier's position as hereinafter set forth, under the various rules and long-established local practices thereunder of the collective bargaining agreement with telegraphers.

By disposition identified as Case No. MP-TCU-51 dated September 16, 1966, EXHIBIT "D", the Manager of Personnel declined the claim, it reads in pertinent part as follows:

"Inasmuch as claimant has already been compensated at the time and one-half rate for the services performed on the date involved, claim for an additional eight hours at the time and one-half rate for such service is declined as being without merit under any provision of the current agreement, particularly Article 8."

By letter dated October 18, 1966 (EXHIBIT "E"), the General Chairman rejected the decision of the Manager of Personnel and advised he was forwarding his file to TCEU President Leighty for his further handling to the Third Division NRAB.

(Exhibits Not Reproduced)

OPINION OF BOARD: Claimant, G. R. Hinrichs, was required to work on February 22, 1966, one of his rest days and also a national holiday. He was paid eight hours at time and one-half rate and claims an additional eight hours at time and one-half.

The issues involved in this dispute are the same as those involved in numerous awards of this Board beginning with Award 10541 and including 16785, 16797, 16801, 16803, 16855, 16982, 17087, 17351 and 17377 and many others, where the claims were sustained. Accordingly, this claim 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 Employes involved in this dispute are respectively Carrier and Employes 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 11th day of November 1969.