



Award Number 17628

Docket Number CL-18201

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

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

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6566) that:

- (a) The Carrier violated the Agreement when it failed to allow J. Jedrychowski proper pay for Labor Day, September 4, 1967.
- (b) The Carrier shall now allow Claimant J. Jedrychowski one additional pro rata day's pay, plus one day's pay at time and one-half.

EMPLOYEES' STATEMENT OF FACTS:

1. At the time claim arose Claimant Jedrychowski was regularly assigned to the position of Chief Clerk A-166, rate \$26.28 per day, rest days Saturday and Sunday. One week of Claimant's vacation was scheduled to be granted from Monday, September 4, 1967 through Friday, September 8, 1967.

2. On August 30, 1967 the Carrier notified Claimant that he would not be permitted to take his vacation scheduled to begin on the following Monday but would be required to work his position Tuesday through Friday. Claimant worked as directed and was paid five pro rata days, plus four time and one-half days. Claimant worked on Friday, September 1 and Tuesday, September 5.

3. Claim was duly filed and progressed through established channels up to Carrier's highest officer designated to decide such disputes. Conference was held on November 8, 1967 and the Carrier's Vice President-Labor Relations denied the claim by letter dated January 4, 1968. Copies of correspondence in connection with the claim are attached and identified as Employees' Exhibits "A" through "I".

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: Claimant J. Jedrychowski was regularly assigned to position of Chief Claim Clerk A-166, rate \$26.28 per day, Monday through Friday, in the General Agent's Office at Chicago, Illinois. He was scheduled for five days vacation the week of September 4 through September 8, 1967, but due to the exigencies of the service the claimant was asked if he would like to work the balance of his vacation be-

ginning September 5. Mr. Jedrychowski agreed to work stating that he had nothing planned that week. Monday, September 4, was Labor Day and no positions in the Freight Office worked on this date. Claimant was paid eight hours at the pro rata rate for September 4 through September 8 as vacation pay and eight hours at the punitive rate for September 5 through September 8 account required to work during his vacation period. He is claiming eight hours at the pro rata rate as holiday pay for September 4 and eight hours pay at the punitive rate, a total of 20 pro rata hours, this in addition to the eight hours already allowed as vacation for this date. What the Petitioner is asking here is a total of 28 hours pay for September 4, 1967, despite the fact he performed no service.

The General Chairman's letter of October 13, 1967, appealing this claim, the Carrier's letter of January 4, 1968, declining same and the General Chairman's clarification letter of February 13, 1968, are attached hereto and identified as Carrier's Exhibits "A", "B", and "C", respectively.

(Exhibits Not Reproduced)

OPINION OF BOARD: Claimant, a regularly assigned employee, with working days of Monday through Friday, was scheduled for five (5) days vacation from September 4 through September 8, 1967, inclusive. However, Claimant, at request of Carrier, worked from Tuesday, September 5 through September 8, 1967. Monday, September 4 was a Labor Day holiday and no positions were worked in the freight office where Claimant was assigned on that date. Claimant was paid 8 hours at the pro rata rate for September 4 through September 8, 1967 as vacation pay and 8 hours at the punitive rate for September 5 through September 8 for being required to work during his vacation period. He makes claim here for 8 hours at the pro rata rate as holiday pay for September 4, 1967—Labor Day plus one days pay at time and one-half.

The facts in this dispute are similar to and come within the purview of Awards Nos. 11146 (Rose) and 14741 (Ives). In each of those Awards, as found in this instance, the holiday referred to fell "on a work day of the work week of" Claimant which was worked by him during his scheduled period and satisfied the holiday pay qualification requirements of Rule 39 1/2.

Therefore, this Claim will be sustained to the extent of one day's pay at the pro-rata rate but the Claim for one day's pay at the time and one-half rate will be denied.

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 in accordance with the Opinion.

A W A R D

Claim sustained for one day's pay at the pro rata rate only.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of December 1969.