



Award Number 17935

Docket Number TE-17143

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

CHICAGO GREAT WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Chicago Great Western Railway, that:

1. Carrier violated the Agreement between the parties when it failed and refused to properly compensate C. J. Colles, W. H. Schumpp, G. E. Darling and R. D. Duckett for July 5, 1965, a holiday falling within the vacation period of each of these employees.
2. Carrier shall be required to compensate the above named employees for July 5, 1965, at the rate of their respective positions, as follows:

C. J. Colles—Ten and one-half (10 1/2) hours at the time and one-half rate plus eight (8) hours at the straight time rate (less 10 1/2 hours at the time and one-half rate previously allowed).

W. H. Schumpp—Eight (8) hours at the time and one-half rate plus eight (8) hours at the straight time rate (less 8 hours at the straight time rate previously allowed).

G. E. Darling—Eight (8) hours at the time and one-half rate plus eight (8) hours at the straight time rate (less 8 hours at the straight time rate previously allowed).

R. D. Duckett—Eight (8) hours at the time and one-half rate plus eight (8) hours at the straight time rate (less 8 hours at the straight time rate previously allowed).

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective June 1, 1948 (Reprinted May 1, 1958), as amended and supplemented, is available to your Board and by this reference is made a part hereof.

On the property, two separate claims were handled. One claim is in behalf of C. J. Colles and W. H. Schumpp, the other in behalf of G. E. Darling and R. D. Duckett (also G. E. Lewis and J. F. Havel). Claims in behalf of G. E. Lewis and J. F. Havel were held in abeyance to be disposed of on the basis of award rendered by the Board in Docket TE-13196 which resulted in Award 14886, denying the claim of the Employees in cases where the position occupied by Claimants do not regularly work on holidays, and claim dates were during the period Claimants were on vacation.

"As indicated by claim in behalf of other employees, Carrier has been failing to properly compensate employees for a holiday falling within their vacation periods. As has been pointed out in those claims the rules governing pay for holidays, holiday pay, etc., and the vacation rules all are in full force and effect and payment under each rule or rules is applicable at all times."

OPINION OF BOARD: Claimants were on vacation when the Independence Day holiday (July 5, 1965) occurred. The holiday was observed on a work day of each claimant's position, and was worked by the relieving employee.

Claimant Colles' position also included an assigned call, which was worked as usual on the holiday. He claimed 10 hours at the time and one-half rate, as "vacation pay", in addition to 8 hours at pro rata rate, as "holiday pay". He was allowed the 10 hours at time and one-half but was denied the 8 hours at pro rata.

All of the other claimants were paid 8 hours at pro rata as "holiday pay", but were denied the additional 8 hours at time and one-half, claimed as "vacation pay".

The resulting issue has been the subject of many awards of this and other Boards. See Third Division Awards 11827, 11976, 13278, 14857, 15722, 15910, 16131, 16377, 16472, 17009, 17011, 17366, 17367. Resolution of the issue is also clearly stated in Award 14886, involving these same parties.

On the basis of established precedent 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 21st day of May 1970.