

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Paul C. Dugan, Referee

**PARTIES TO DISPUTE:**

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

**PENN CENTRAL COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6657) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rules 4-A-1(c) and 4-A-2(a), when the claimant worked on February 22, 1964, which day was a recognized holiday and was also her rest day, by failing to pay her a day's pay at time and one-half under each of these rules.

(b) Claimant Mae V. Touhey, Clerk, regularly assigned in the Ticket Sales and Service Bureau, Pennsylvania Station, New York, N. Y., be paid an additional day's pay at time and one-half for services performed on this date. (Docket 2197.)

**EMPLOYEES' STATEMENT OF FACTS:** This dispute is between the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees as the representative of the class or craft of employees in which the Claimant in this case held a position and the former Pennsylvania Railroad Company, hereinafter referred to as the Brotherhood and the Carrier respectively.

There was in effect a Rules Agreement, effective May 1, 1942, except as amended, reprinted as of September 1, 1965, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier (the former Pennsylvania Railroad) and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act, and also with the National Railroad Adjustment Board. This Rules Agreement will be considered a part of this Statement of Facts. Various Rules thereof may be referred to herein from time to time without quoting in full.

Effective February 1, 1968, the New York Central Company was merged into the Pennsylvania Railroad Company, and a new Company resulted, now known as the Penn Central Company. A new Clerical Rules Agreement became effective on that date. This is indicated here as a matter of information only, as the present dispute originated prior to this date.

At a meeting on February 21, 1968, the General Chairman presented the claim to the Director, Labor Relations, the highest officer of the Carrier designated to handle such disputes on the property. The Director denied the claim with his letter dated August 9, 1968, copy attached as Exhibit B.

Claim was rediscussed at special meeting on April 8 and 9, 1969, and by letter of April 24, 1969, the Director reaffirmed his denial.

Thus, so far as the Carrier is able to anticipate the basis of this claim, the questions to be decided by your board are:

"Whether Washington's Birthday, Saturday, February 22, 1964, was a holiday for Claimant Touhey, and if so, was Claimant entitled to dual payment at the rate of time and one-half for working on the holiday which coincided with her rest day?"

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimant's position in this claim is that Carrier violated Rules 4-A-1(c) and 4-A-2(a) of the Agreement when she worked on Saturday, February 22, 1964, which day was a recognized holiday and was also her rest day, by failing to pay her a day's pay at time and one-half under each of said rules. Claimant was paid 8 hours' pay at the punitive rate and seeks an additional 8 hours' pay at the punitive rate for working said rest day and/or holiday.

Rule 4-A-1(c) reads as follows:

"4-A-1(c) Employees worked more than five days in a work week shall be paid one and one-half times the basic straight time rate of pay for work on the sixth and seventh days of their work weeks, except where such work is performed by an employee due to moving from one assignment to another or to or from an extra list, or where days off are being accumulated under paragraph (g), (3) of Rule 5-E-1."

Rule 4-A-2(a) provides as follows:

"4-A-2(a) Work performed on the following legal holidays namely — New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving and Christmas (provided when any of the above holidays fall on Sunday, the day observed by the State, Nation, or by proclamation shall be considered the holiday), shall be paid at the rate of time and one-half."

Carrier relies on Rule 4-A-2(c) of the Agreement in relieving it of responsibility in regard to this claim, alleging that under the provisions of said Rule 4-A-2(c), the so called "shifting holiday" rule, the hours Claimant worked on Saturday, February 22, 1964, was rest day work but not holiday work, and thus there is no basis for the claim for an additional eight (8) hours' compensation at the time and one-half rate.

Rule 4-A-2(c) contains the following:

"4-A-2(c) When a regularly assigned employee has an assigned relief day other than Sunday, and one of the holidays specified in

paragraph (a) of this rule (4-A-2) falls on such relief day, the day following will be considered his holiday."

This Board, in numerous past Awards, has held that the incumbent of a regular position is entitled to an additional time and one-half payment for the same eight (8) hours worked on a day which is his rest day and an assigned holiday. However, we are confronted in this instance with a Rule in the Agreement that differs from the situation facing us herein and the Awards upholding the aforementioned decisions in regard to said rest day-holiday work.

Rule 4-A-2(c) in effect shifts a holiday falling on a regularly assigned employee's relief day to a day following said relief day. So, in effect, Claimant in this instance did not work on Washington's Birthday, February 22, 1964, because of said Rule 4-A-2(c). Said holiday was shifted to the day following, in this instance to Sunday, February 23, 1964.

Therefore, inasmuch as Claimant did not work on the holiday, Washington's Birthday, February 22, 1964, and having been paid for working her rest day on said date, Saturday, February 22, 1964, we are compelled to deny the claim.

**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 not violated.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of October, 1970.