



**Award No. 18805**  
**Docket No. CL-19126**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Arthur W. Devine, Referee**

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**PARTIES TO DISPUTE:**

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

**THE BELT RAILWAY COMPANY OF CHICAGO**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6895) that:

1. The Carrier violated the Clerks' Agreement on October 27, 1969, by holding Clerk Montello off his regular position on his birthday holiday October 27, 1969.
2. Clerk Montello shall now be allowed eight hours pay, at the applicable overtime rate, as well as interest payment at the current rate, on the amount of reparations due.

**EMPLOYEES' STATEMENT OF FACTS:** Claimant is the incumbent of Record Room Attendant and File Clerk position with assigned hours of 8:15 A. M. to 4:45 P. M., Monday through Friday with rest days of Saturday and Sunday.

The duties of Claimant's position consists primarily of receiving and delivering mail.

Monday, October 27, 1969, was Claimant's birthday holiday in accordance with Article 11, Section 6, of the Agreement of November 20, 1964, effective with the calendar year 1965, which granted each hourly, daily and weekly rated employee one additional day off with pay, or an additional day's pay, on each such employee's birthday.

The employee's birthday holiday is generally treated the same as one of the seven recognized holidays under the general rules agreement.

Claimant was not permitted to work his assignment on this date and the duties of his position that were required to be performed were assigned to and performed by the incumbent of the A. A. R. Clerk position, Mr. J. Koziol.

On November 7, 1969, claim was formally filed with the Controller, Mr. W. Cassidy and was declined on January 2, 1970.

Employees' Exhibit Nos. 1 and 2.

**OPINION OF BOARD:** It is well settled by prior awards of this Board that positions may be blanked on holidays, including birthday holidays, but if work of the position is required to be performed on the holiday the regular employe is entitled to be used.

It is clear from the record that work was required to be performed on Claimant's position by other clerks on his birthday holiday. The reason for the work being performed has no bearing on the application of the rules.

Under Rule 46 of the Agreement an employe notified or called to perform work on one or both of his rest days or on holidays is entitled to eight hours at the rate of time and one half. Under this rule the Claimant is entitled to pay for eight hours at the time and one-half rate and the claim will be sustained to that extent, but the claim for interest 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 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.

#### **AWARD**

Claim sustained to the extent indicated in Opinion.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

**ATTEST: E. A. Killeen**  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of November 1971.