

Award No. 18908
Docket No. TE-19113

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION DIVISION, BRAC
READING COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Reading Company, T-C 5799, that:

CLAIM NO. 1

Car. File: 5217.17
Com. File: P-277/V-H/70

1. Carrier violated the parties' agreement when it failed and refused to properly compensate claimant, H. F. Perkins, for holiday pay (Thanksgiving Day) November 27th, 1969, that fell on a work-day (Thursday) of his position, while he was on vacation.

2. As a consequence of the above violation the Carrier is required to pay claimant, H. F. Perkins, the difference from what he was allowed (16 hours at straight time) and what he should have received (20 hours at straight time) the difference claimed is \$16.40. (BU-14174)

CLAIM NO. 2

Car. File: 5217.16
Com. File: P-278/V-H/70

1. Carrier violated the parties' agreement when it failed and refused to properly compensate claimant, V. J. Springer, for holiday pay (Christmas Day) December 25th, 1969, that fell on a work-day (Thursday) of his position, while he was on vacation.

2. As a consequence of the above violation the Carrier is required to pay claimant, V. J. Springer, the difference from what he was allowed (16 hours at straight time) and what he should have received (20 hours at straight time), the difference claimed is \$19.09. (BU-14175)

cc: Mr. J. T. Finnegan
General Chairman, Division 10
65 Coll Drive
Phoenixville, Pennsylvania 19460"

OPINION OF BOARD: Claimant is asking this Board to require Carrier to pay him an additional four (4) hours' pay, due to his position being worked on a legal holiday while he was on vacation.

Mr. A. R. Lowry, President of the TC Division, BRAC, advised Carrier's Director Personnel and Labor Relations, Mr. R. E. Rice, Jr., by letter dated July 1, 1970 in relation to this claim and two other similar claims for other employees as follows:

"We realize that we cannot now ask for more than claimed, even though it represents less than the amount actually due by authoritative interpretation of the rules. Will you please arrange to pay the claims, advising General Chairman Finnegan, so that we need not be put to the trouble of seeking adjudication by a tribunal that can only sustain such claims."

Conforming to the aforesaid request, Carrier's Manager Labor Relations, V. W. Bigelow, advised General Chairman, John F. Finnegan, by letter dated November 30, 1970 that:

"This will service to advise that in order to dispose of the above claims (Claimant's claim was listed), I am agreeable to allow without prejudice or precedent the above named claimants' four (4) hours each at their prevailing pro rata rate of pay on dates in question. Furthermore, it is understood that the payments of these claims are in no way to be construed as precedent or prejudicial to future claims of analogous matters."

Carrier's said Manager Labor Relations, V. W. Bigelow, advised this Board by letter December 14, 1970 as follows:

"This will serve to advise that the above referred to claims have been paid for the time sought as evidenced by the attached copy of Carrier's letter dated November 30, 1970 to General Chairman Finnegan with copy to President Lowry. Accordingly, in view of the foregoing, I see no useful purpose in preparing a submission for these claims, consequently unless I am advised to the contrary, I will consider this matter as being closed."

Inasmuch as the claim requested herein has been paid, we find the instant dispute is now moot and, therefore, we will dismiss 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 Employee involved in this dispute are respectively Carrier and Employee 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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of December, 1971.