

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19271
Docket Number CL-16915

William M. Edgett, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Central of Georgia Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6193)
that:

(1) The Carrier has violated and continues to violate the Clerks' Agreement of December 1, 1956, as amended, by requiring or permitting the Agent, Telegrapher Operators Rahn and Taylor, employees not covered by the Clerks' Agreement, to perform work heretofore assigned solely and exclusively to Clerks' performance at Millen, Georgia, and that, therefore

(2) Yard Clerk Jack Strickland shall now be paid eight (8) hours' penalty time for service performed by the above referred to employees not covered by the Clerks' Agreement for Monday, December 27, 1965 and Monday, January 3, 1966, the Legal Holidays in Clerk Strickland's case, at his regular rate of pay (subject to any future salary adjustment, if any) and also paid in like manner for each and every holiday or rest day, if any, upon which a like violation occurs in the future, and that

(3) The successor, or successors, if any, of Yard Clerk Jack Strickland shall be paid in like manner, and that

(4) The records of the Carrier at this small station shall be jointly checked with the General Chairman to determine the extent of the violation and the reparations due the above named or referred to employee(s).

OPINION OF BOARD: The only claim properly before the Board is for Monday, December 27, 1965, and Monday, January 3, 1966, which were holidays for claimant. The wording of the claim itself is sufficient to determine that there was no continuing violation.

In initiating the claim the claimant stated the basis for the claim for December 27, 1965, as:

"Held off job on December 27 account of my holiday and work being performed by operator Taylor operator Rahn and Agt. Morris. Work that is assigned to this job 5 days per week putting mail on 108 and working yard, Making consist and yard reports."

A similar statement was made in the January 3, 1966 claim.

Holidays are considered in the category of unassigned days, covered by Rule 35(f), and Decision No. 2 of the Forty-Hour Week Committee, which reads:

"Where work is required to be performed on a holiday which is not part of any assignment the regular employee shall be used."

There is sufficient evidence in the record to find that the claimant was "the regular employee", and was entitled to be used on the specified holidays. However, we have been cited to no rule in the Agreement requiring a payment of eight hours at penalty rate for each day. We will sustain the claim to the extent of allowing payment of a minimum call under Rule 36(a) for December 27, 1965, and January 3, 1966.

Parts (3) and (4) of the claim will be dismissed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 to the extent shown in the Agreement.

A W A R D

Claim sustained to extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Kilken
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of June 1972.