

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19452
Docket Number CL-19370

Joseph E. Cole, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(J. F. Nash and R. C. Haldeman, Trustees of the Property of
(Lehigh Valley Railroad Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6950)
that:

(a) Carrier violated the Agreement between the parties effective May 1, 1955, as revised, when it denied Mr. D. A. Bennett, the right to work his regular position on Christmas December 25, 1969, and ordered out a junior employee Mr. Gosper to work this assignment, and

(b) Carrier shall now be required to compensate Mr. D. A. Bennett, a day's pay at the punitive rate of his position for Christmas Day, December 25, 1969.

- OPINION OF BOARD:
1. The Claimant has a prior right to do the overtime work in question. There is no dispute of this on the record.
 2. The sole question before the Board is whether any reasonable attempt was made to call the claimant to do this overtime holiday work.
 3. The Clerks call sheet for December 25, 1969 shows the notation that "D.B. not home". It is not refuted that this means the Claimant, and indicates that an attempt was made to call the Claimant to work.
 4. Claimant alleges that no attempts were made to call him to this overtime work, and Carrier alleges that several attempts were made to call Claimant to this overtime work.
 5. This Board will not impute dishonesty on either the Claimant or on the Carrier.
 6. There is evidence that the Carrier tried to call the Claimant, and that the Carrier was not attempting to circumvent payment of overtime to the claimant. We do not know why the Claimant did not answer to the calls.

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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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E A Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1972.