

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19521
Docket Number CL-19542

Frederick R. Blackwell, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7033) that:

(1) Carrier violated the Agreement between the parties at Springfield, Missouri when on May 30, 1970, a recognized national holiday, it refused to properly compensate the incumbent of the Diesel Clerk position who was assigned to work on that date and who did in fact perform service on the holiday.

(2) Mr. Van H. Elting now be compensated at the time and one-half rate of the Diesel Clerk position on May 30, 1970 which he worked in addition to the eight hours straight time he received on that date, a legal holiday.

OPINION OF BOARD: Claimant seeks eight hours compensation at time and one-half rates for work allegedly performed on May 30, 1970, a Holiday under the parties' National Holiday Agreement. In their submission to the Board, and also in their reply to the Organization's Ex Parte Submission, Carrier questions whether or not Claimant did in fact work the Holiday; questions what work he performed if any, and charges that in any event if he did work the Holiday he was not authorized to do so.

After carefully examining the entire record, the Board concludes that Claimant did work on the Holiday. The Organization states that three supervisors were present when Claimant was on duty, and Carrier's Chief Mechanical Officer did write on September 29, 1970:

"The facts are that Mr. Elting worked his position as diesel clerk on May 30, 1970, a Saturday, one of the rest days of his assignment, without being authorized to do so. * * *."

The question of authorization is more troublesome. We find that Claimant was verbally instructed just prior to the Holiday to discontinue working on Saturdays, a practice authorized for some twenty previous months. He was not, though, told specifically to discontinue working Holidays or to discontinue working holidays that were also rest days. Also, the record discloses that Bulletin No. 746 for Claimant's position of Diesel Clerk No. 61 lists assignment as: "Five days per week, including Holidays". Additionally, there is in evidence a document entitled:

"Schedule of Assigned Hours and Rates of Pay for Agents,
Telegraphers and Clerical Employees - Eastern Division
effective January 1, 1970."

which shows Claimant's position as scheduled to work on Holidays.

Under these circumstances, we must hold that verbal instructions to discontinue working on Holidays were not specific enough to overcome two other written requirements that Claimant's position would work on Holidays. We will sustain 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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 20th day of December 1972.