

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19772
Docket Number CL-19871

Benjamin **Rubenstein**, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees

PARTIES TO DISPUTE: (

(Chicago & Illinois Midland Railway Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-7156)
that:

1. Carrier violated the Agreement between the parties when it failed and refused to compensate **Telegrapher-Leverman J. M. Ruggles** for **eight** hours at time and one-half rate on April 1b, 1971, his Birthday-Holiday and **also a vacation** day.

2. Carrier shall compensate J. M. Ruggles for eight hours at the time and one-half rate of his position for April 1b, 1971.

OPINION OF BOARD: While on vacation, Claimant's birthday fell on **an** assigned workday of his workweek and his position **was** worked on **his** birthday. Claimant was paid eight (8) hours' pro rats for his birthday holiday and eight (8) hours' pro rats for vacation pay. He claims additional four (4) hours pay pursuant to the provisions of **the** agreement.

Petitioner argues that Claimant should be paid the additional four (4) hours' pro rats pay **making** his total compensation for the day in question twenty (20) hours because Carrier filled his position while on vacation and on his birthday holiday. Award Nos. 15722 (Miller), 15910 (McGovern), 16131 (House), 16377 (**Heskett**), 16472 (McGovern), 17009 (**Criswell**), 17011 (Criswell), 17366 (Ysgods) and 17367 (Ysgods), deal with identical fact situations. They and numerous other awards sustain the position of petitioner herein.

Respondent argues that the issue has been decided in its favor in Awards 17200 (Myers), and 19617 (**Blackwell**).

We have carefully examined all of the Awards cited and find that the better-reasoned Awards support the Petitioner. We will, therefore, sustain the claim for an additional four (4) hours' pay at pro rats rates.

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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

The contract was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1973.