NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 20609

THIRD DIVISION Docket Number SG-20284

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company
((Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Pacific Lines) that:

(a) The Southern Pacific Transportation Company violated the agreement entitled Mediation Agreement, case No. A-8433 between the participating carriers represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees, and the employes represented by the Brotherhood of Railroad Signalmen, dated April 21, 1969, hereinafter referred to as the National Agreement of April 21, 1969, and particularly Article II, Section 3, which resulted in loss of earnings for claimant.

(b) The Southern Pacific Transportation Company violated the Mediation Agreement, Case No. A-8811, between the carriers of the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and the employes represented by the Brotherhood of Railroad Signalmen, dated November 16, 1971, hereinafter referred to as the National Agreement of 1971, and particularly Article II, Section 7, which resulted in loss of earnings for claimant.

(c) Claimant /Signalman J. L. Gowder, System Signal Shop at Sacramento, California/ be reimbursed for loss of earnings as provided by Rule 70 of the agreement between the Southern Pacific Transportation Company (Pacific Lines) and the employee of the Signal Department represented by the Brotherhood of Railroad Signalmen, effective April 1, 1947 (reprinted April 1, 1958, including revisions).

/Carrier's File: SIG 162-33/

OPINION OF BOARD: This case presents a dispute regarding the interpretation and application of Article II (Holidays) of the National Agreement of August 21, 1954, as subsequently amended by agreements in 1960, 1964, 1969 and 1971. In particular we are presented with a rather narrow issue concerning the application of rules governing the qualifying requirements for New Years Holiday, when the holiday falls within a scheduled vacation period commencing December 27, 1971 and ending January 14, 1972.

The basic facts out of which the dispute arose are not in contention. Claimant J. L. Gowder is employed at Carrier's System Signal Shop at Sacramento, California on a regularly assigned position working Monday through Friday with rest days on Saturday and Sunday. During the work week from Monday to Friday, December 20 to 24, 1971 Claimant was on authorized leave of absence. During the work week commencing Monday, December 27, 1971 Claimant observed 5 days of vacation. Similarly, during the work weeks commencing on Monday, January 3, 1972 and Monday, January 10, 1972, respectively, Claimant observed a total of 10 more days of vacation. Claimant concluded his vacation on Friday, January 14, 1972 and returned to work on Monday, January 17, 1972.

No compensation was credited to Claimant during the period December 20 to 24, 1971 while he was on leave of absence. Accordingly, he was not paid for the Christmas Holiday, December 25, 1971 and this issue is not herein contested. During the period December 27, 1971 to January 14, 1972 Claimant was paid eight (8) hours for each vacation day (Monday through Friday) at the applicable rate of his regularly assigned position. Claimant was not paid for the New Years Holiday, Saturday, January 1, 1972, and this is the gravamen of the instant claim which was filed on January 31, 1972.

Carrier denies Claimant's right to the New Years holiday pay on grounds that he did not qualify for such pay pursuant to the requirements for holiday pay stated in Article II, Section 7 of the National Agreement of August 21, 1954, as amended subsequently by several Mediation Agreements. In this connection, Carrier asserts that the holiday occurred during a scheduled vacation period and that no compensation was credited to Claimant on the workday preceding said vacation, viz., Friday, December 24, 1971, albeit compensation was credited for the workday following, i.e., January 3, 1972. Thus, contends the Carrier, Claimant is expressly disqualified from receiving the holiday pay by the qualifying phrases of Section 7, which was added to the National Agreement by the Mediation Agreement of April 21, 1969.

Petitioner maintains that the holiday did not fall "during" Claimant's vacation period but rather "between" two separate and distinct vacation periods. Under this theory, Petitioner contends that Claimant observed one period of vacation from December 27 to December 31, 1971 during which compensation was credited to him in the form of vacation Pay. Subsequently, Petitioner asserts, Claimant observed a second period of vacation commencing January 3 through 14, 1971 during which compensation was credited to him in the form of vacation pay. Thus, under Petitioner's theory, Claimant qualified for the January 1, 1972 holiday pay

because compensation was credited to him on the workday preceding the second vacation period, viz., Friday, December 31, 1971, as well as on the workday following, i.e., January 3, 1972; thereby fulfilling the requirements of Section 7.

Resolution of this dispute turns upon the application of Section 7, cited supra, which reads as follows:

> "Section 7. (a) When any of the seven recognized holidays enumerated in Section 1 of this Article II, or any day which by agreement, or by law or proclamation of the State or Nation, has been substituted or is observed in place of any of such holidays, falls during an hourly or daily rated employee's vacation period, he shall, in addition to his vacation compensation, receive the holiday pay provided for therein provided he meets the qualification requirements specified. The 'workdays' and 'days' immediately preceding and following the vacation period shall be considered the 'workdays' and 'days' preceding and following the holiday for such qualification purposes." Emphasis added.

Irrespective of the broader question of bifurcated or single vacation the result in this case must be the same - for purposes of construing the holiday qualification rule we must treat the situation here as if it were a single vacation. We can find nothing in the express language of the Agreement to warrant treatment of the New Years Holiday in a fashion different from any of the other contractually provided holidays which might fall during a vacation period; as Petitioner would have us do. Railroad labor organizations and carriers have amply demonstrated their ability to negotiate specific and detailed contract language regarding such matters, when it was their mutual intention so to contract. In the absence of such express language or other indicia of mutual intent, we are not prepared to read such special handling of the New Years Holiday into the Agreement merely because it falls during a vacation period.

Accordingly, we find that compensation was not credited to the Claimant on December 24, 1971, which workday is considered the workday preceding the holiday for qualified purposes under Section 7, supra. In these circumstances we have no alternative but to deny 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 Employes involved in this dispute are respectively Carrier and Employes 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: A. W. Paulus
Executive Secretary

Dated at Chicago, Illinois, this 21st day of February 1975.