

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21413
Docket Number CL-21125

James C. **McBrearty**, Referee

(Brotherhood of Railway, Airline and Steamship Clerks?
(Freight Handlers, **Express** and Station **Employees**
PARTIES TO DISPUTE: ((Robert W. Blanchette, Richard C. Bond, and John H.
(**McArthur**, Trustees-of the Property of
(**Penn** Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-7786) that:

L. A. Sorrell claiming one day's pay for Christmas Day, December 25, 1971, W. A. Shorts claiming a day's pay for December 25, 1971 and **January** 1, 1972, J. J. **McNabb** claiming a day's pay for December 25, 1971 and January 1, 1972. (Docket 2808)

OPINION OF BOARD: In order to **make** a lawful award on the merits of this dispute, the **Board must** find that it has jurisdiction over the parties and the subject matter of this dispute (See A. B. Phillips v. Fidalgo Island Packing Company., 230 F. 2d 638, 640 (9th Cir. 1955); rehearing denied 238 F. 2d 234 (9th Cir. 1956); certiorari denied 352 U.S. 944 (1956)).

This Board has been granted jurisdiction by Section 3, First (i) of the Railway Labor Act, **over "disputes** between an employe or group of **employees** and a Carrier or Carriers." The Act defines the term "**employe**" in **Section 1 Fifth**, as including "every person in the service of a Carrier . . . who performs any work defined as that of an employe or subordinate official in the orders of the Interstate **Commerce** Commission." The Railway Labor Act defines the **term "carrier"** in **Section 1, First**, as including "any express company, sleeping car company, Carrier by railroad, subject to the Interstate **Commerce** Act." Therefore, it should be clear that the Railway Labor Act explicitly limits and parallels its coverage, with respect to both carriers and **employees**, to the coverage of the Interstate **Commerce** Act.

Sections 1 (1) **(a)** and 1(2) of the Interstate Commerce Act limit its application to **common** carriers and transportation, "only insofar as such transportation or transmission takes place within the United States." Consequently, the application of the Railway Labor Act must also be limited to activities which take place within the United States.

The clear and unambiguous language of the Railway Labor Act limiting its scope and coverage to labor relations within the United States has been sustained both by this Board (**see** Third Division Award 18694; First Division Awards 14082, 11151, 11150, 11149, and **915**), and the Federal courts (see

Air Line Dispatchers Assn. v. National Mediation Board, 189 F. 2d 685, cert. denied, 342 U.S. 849 (1951); Air Line Stewards and Stewardesses Assn. v. Northwest Airlines. Inc., 162 F. Supp. 684, 267 F. 2d 170, cert. denied, 361 U.S. 901 (1959); Air Line Stewards and Stewardesses Assn. v. Trans World Airlines, 173 F. Supp. 369, 273 F. 2d 69, cert. denied, 362 U.S. 988 (1959)).

On the basis of the foregoing authorities, this Board finds **that**, with respect to operations within the Dominion of Canada, the Carrier and Rmployes involved in this dispute are not Carrier and **Employes** within the meaning of the Railway Labor Act. Therefore, this Board being without jurisdiction to decide this dispute on its merits, the claim must be dismissed.

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 Rmployes involved in this dispute are respectively Carrier and Rmployes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the **Adjustment Board** has jursidiction over the dispute involved herein; and

That the Carrier and the Rmployes involved in this dispute are not respectively Carrier and Rmployes within the **meaning** of the Railway Labor Act, as approved June 21, 1934;

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February 1977.

