NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22268
Docket Number CD-21949

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers Express and Station Employes
(Chicago and North Western Transportation Company

STATEMENT OJ? CLAIM: Claim of the System Committee of the Brotherhood (GL-8350) that :

1. Carrier violated the Agreement Rules, particularly Article II, Section 3, of the Agreement of August 21, 1954, as amended by the Agreement of August 19, 1960, and further amended by the Agreement of December 28, 1967, when it failed to compensate Mr. G. M. Osborn, Clerk at Cedar Lake Yard, Minneapolis, Minnesota, for eight (8) hours on September 6, 1971, after he had properly qualified for such compensation under the Agreement Rules, and;

2. Carrier shall be required to compensate Mr. G, M. Osborn eight (8) hours at the pro-rata rate for the Labor Day holiday which fell on September 6, 1971.

OPINION OF BOARD: Claimant holds a regular position covered by the Clerical Agreement with assigned hours 7:00 a.m. to 3:00 p.m., Monday through Friday, with Saturday and Sunday as rest days. Claimant is also a qualified Yardmaster and is sometimes required to fill Yardmaster vacancies.

In the instant case, Claimant did not work his regular clerical position Friday, September 3, 1971, because he was absent due to illness. Saturday, September 4, 1971, was his first regular rest day. Sunday, September 5, 1971, he was required to work a Yardmaster position. The Claimant was required to work Labor Day, Monday September 6, 1971, on his regular clerical position. He also worked his regular clerical position on Tuesday, September 7, 1971.

The Organization argues that Claimant worked as a Yardmaster on Sunday, September 5, 1971, the day immediately preceding the Labor Day holiday, and worked his regular clerical position Tuesday, September 7, 1971, the day immediately following the Labor Day holiday.

Therefore, this claim was filed for eight (8) hours pay under the holiday rule.

The Carrier maintains that the Claimant did not work on Friday, September 3, 1971, on his regular position and, therefore, he did not work the day before and the day after the holiday and is not entitled to holiday pay.

The parties are governed by the Nonoperating (BRAC) National Holiday Provisions. Article II, Section 3 provides as follows:

> ART. II - section 3.
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> "A regularly assigned employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid him by the carrier is credited to the workdays immediately preceding and following such holiday as if the employee is not assigned to work but is available for service on such days. If the holiday falls on the last day of a regularly assigned employee's workweek, the first workday following his rest days shall be considered the workday immediately following. If the holiday falls on the first workday of his workweek, the last workday of the preceding workweek shall be considered the workday immediately preceding the holiday."

The requirement that an employe work the day before and the day after the holiday in order to receive holiday pay apparently was agreed upon in order to discourage employes from "stretching" their holidays. The parties specifically negotiated the language "if the holiday falls on the first workday of his workweek, the last workday of the preceding workweek shall be considered the workday immediately preceding the holiday." The Organization urges that we should apply common sense when interpreting this rule and find that the Claimant did, in fact, work the day before the holiday, regardless or the guidelines given to us by the rule.

The parties have negotiated the rule. It is clear and it specifically speaks to the point involved in this case. Under the circumstances presented, Friday, September 3, 1971, was the workday before the holiday for this Claimant. He was off on account of illness and, therefore, is not entitled to holiday pay for Labor my, Monday, September 6, 1971.

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: G. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 12th day of January 1979.