

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23884**
Docket Number **MW-23385**

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees
{ Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the **System** Camittee of the Brotherhood that:

(1) The **Agreement** was violated when E. A. Peres was not properly compensated for holiday pay for December 24, **1978** (Christmas Eve) and December **25, 1978 (Christmas Day)** (Carrier's File **190-Mofw**).

(2) Because of the aforesaid violation, E. A. Peres **shall** be allowed twelve (**12**) hours and forty (**40**) minutes of pay at the Assistant Foreman's straight **time** rate."

OPINION OF BOARD: The Claimant, an Assistant **Section** Foreman, relieved the **regular Foreman** when he **was on** vacation from December 18 through December 31, **1978**. However, Carrier did not allow him holiday pay for Christmas Eve and **Christmas** Day.

The Claimant asserts that he is an 'hourly rated' employe and as such he should have received sixteen (16) hours of holiday pay whereas the Carrier contends that the Claimant functioned as a "**monthly** rated" employe and that he was **compensated** properly because the salary structure contemplates holidays.

The Employes have cited, -g others, Award **19756** which held that a temporary **assignment** of hourly rated **employes** to **monthly** rated jobs, by Carrier for its convenience, "... does not change the status of hourly rated employes to monthly employees".

The Carrier has also cited Awards which have reached a contrary conclusion. See for **example** Award **124** of Public Law Board **1366** and Fourth Division Award 3713.

The Employes' contention seems to argue the equity of the situation. Yet Rule 33 clearly points out the method of pay **computation** to be used. It may be that the results are harsh, but it is not our **function** to rewrite agreements to ease their application to a particular set of facts.

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;

Award Number 23884
Docket Number MW-23385

That the Carrier **and** the Employes involved in this dispute are respectively Carrier and Employes within the weaning 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: Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, **Illinois**, this **13th** day of May, 1982.

