

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24958
Docket Number CL-24391

Rodney E. Dennis, Referee

(Brotherhood of Railway, Airline and Steamship Clerks
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9528)
that:

1. The Company violated the agreement between the parties when on November 11, 1978; which was a holiday and also a vacation day, when they failed to properly compensate Clerk O. R. Bowers for services performed by him.

2. Company shall be now required to compensate Clerk O. R. Bowers an additional eight (8) hours at the time and one-half rate.

OPINION OF BOARD: Claimant O. R. Bowers worked the second shift Operator's position at Mattoon, Illinois. He was required to work his position on November 11, 1981. November 11 was a holiday and a scheduled vacation day for Claimant. Carrier paid Claimant 28 hours for eight hours of work on that day. The Organization claims 40 hours pay for the day worked.

Petitioner reasons that Award 23183 on the same property granted 28 hours of work to a Claimant who was not allowed to work his position under identical conditions. It concludes that it is only reasonable that if you can receive 28 hours of pay for not working, you should receive more if you do work. The difference would be eight hours at the punitive rate. Adding 12 hours of pay to the 28 hours of pay one can receive for not working equals the 40 hours of pay requested by Claimant.

Carrier contends that the Organization's argument in this case does not find support in any rule and that it is contrary to arguments the Organization previously used to obtain the 28 hours of pay for the incumbent in a job when the job was worked on a holiday by someone else when the incumbent was on vacation.

After a careful review of the record, the Board is compelled to support Carrier in this instance. Award 23183 cited by the Organization addresses the same set of facts that we have here, except the incumbent did not work his job on the holiday. His vacation relief did. Claimant was awarded eight hours at the punitive rate, bringing his total pay for July 4 to 28 hours, even though he did not work. The money paid to Claimant on this day is what he would have been entitled to if he had worked. He was made whole for all losses. He received the extra 12 hours of pay because someone worked in his place and he should have been given the opportunity to work the holiday if he chose to.

Article 7(a) contemplates that an employee having a regular assignment will be paid while on vacation the daily compensation paid by the Carrier for such assignment and that is what the claimant was paid in this instance. Further, Section 5(c) of the Holiday Agreement contemplates that an employee will not be allowed more than one time and one-half (1-1/2) payment for service performed by him on a holiday which is also a work day, a rest day, and/or a vacation day. This provision prohibits the payment of the second day at time and one-half presented in this claim. Consequently, it is our view that the claimant was properly paid twenty-eight (28) hours for the day involved.

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 Employee 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:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois this 14th day of August 1984.

