

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 25385
Docket Number MW-24638

W. S. Coleman, Referee

(Brotherhood of Maintenance of Way **Employees**)
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

"1. The Carrier violated the Agreement when it failed and refused to allow **Trackmen** J. K. **Bosworth**, D. R. **Tuller**, M. L. Nelson and C. B. Eaton holiday pay for **Christmas Eve** (**December 24**, 1980), **Christmas My** (**December 25**, 1980) and **New Year's Day** (**January 1**, 1981) (System Files **B-2027/MWC 81-6-3A** and **B-1880/MWC 81-6-5A**).

2. The Claimants shall each be allowed twenty-four (**24**) hours of pay at the **trackman's** rate in effect on the Claim dates because of the violation referred to in Part (**1**) above:

OPINION OF BOARD: Claimants J. K. **Bosworth**, D. R. **Tuller**, M. L. Nelson, and C. B. Eaton were furloughed **Trackmen** called by Carrier to fill vacancies at Crystal City and **McBride**, Missouri. Three of the men were called on **December 16**, 1980, and one was called on December 17, 1980. Claimants worked on the job to which they were assigned on the day before and day after the Christmas and New Year holidays. Carrier, however, did not pay them for the holidays. Petitioner filed a Claim ultimately contending that the employees were regularly assigned as contemplated under the National Vacation Agreement and since they worked the day before and the day after the holiday, they should be paid for all three holidays, **Christmas Eve**, **Christmas Day** 1980, and **New Year's Day** 1981.

Carrier contends that Claimants are not regularly assigned employees, since they were called to fill jobs that were being bulletined and they were filling the vacancies on a temporary basis. As such, they are classified under the **Holiday** Pay Rule as other than regularly assigned employees and consequently must qualify for holiday pay under that category. This means that Claimants would have to work 11 of the 30 days immediately preceding the holidays in order to qualify for holiday pay. In only one case did that happen and that Claimant (**Tuller**) was paid for New Year's Day 1981.

This Board has reviewed the record of the case and carefully considered **the** arguments presented, as well as previous awards submitted in support of the respective parties' positions. Based on those deliberations, it is **this** Board's position that Claimants in this case were not regularly assigned employees as contemplated by the National Vacation Agreement and that, **as** such, they had to qualify for vacation pay as other than regularly assigned employees. Since they did not work 11 days out of the 30 days just prior to the holidays, they did not qualify for pay. This Board shall therefore deny this 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 **Employees** involved in this dispute are respectively Carrier and **Employees** 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

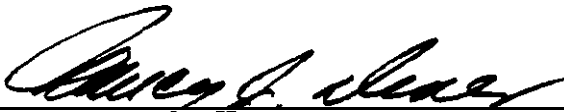
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

Attest:


Nancy J. ~~Dever~~ - Executive Secretary

Dated at Chicago, Illinois this 15th day of April 1985.