

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28514
Docket No. MW-27124
90-3-86-3-178

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Union Pacific 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 Messrs. D. N. VanDyke and J. J. Gonzales holiday pay for November 22 and 23, 1984 (Thanksgiving holidays) (System File M-113/013-210-44).

(2) Because of the aforesaid violation, the claimants shall each be allowed sixteen (16) hours of pay at their respective straight time rates."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The underlying facts precipitating the instant Claim are not in dispute. The employees of System Gang 7832 signed a petition requesting to work three Saturdays at straight time, i.e., October 27, November 3 and 10, 1984, in lieu of November 19, 20, 21 so that they would have an extended Thanksgiving holiday. Thanksgiving that year fell on Thursday, November 22, 1984, and railroad employees who qualified were given November 22 and November 23, 1984, off as holidays.

For reasons not made clear on this record, permission was granted to work only one Saturday - November 17, 1984 - in lieu of Wednesday, November 21, 1984. As a result, the employees on Gang 7832 had Wednesday, November 21 through Sunday, November 25 off in conjunction with the aforementioned Thanksgiving holiday.

Section 3 of the National Non-Operating Holiday Agreement states:

"Section 3. 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 holidays or 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."

Carrier contends that while thirty-six members of the Gang were considered qualified for holiday pay on the November 22 and 23, 1984 holidays based on their having performed compensated service on Tuesday, November 20 and Monday, November 26, 1984, Claimants, by contrast, were absent without authority and did not work Tuesday, November 20, 1984. Since Claimants did not work on the workday immediately preceding the holiday, Carrier argues that it properly denied them holiday pay.

The Organization contends that the "workday immediately preceding the holiday" was Wednesday, November 21, 1984, and that since Claimants, as well as other employees in the Gang worked Saturday, November 17, with compensation credited to Wednesday, they should have received holiday pay. Essentially, the Organization maintains that the express language of Section 3 provides for the payment of holiday pay in this case, since the Claimants were paid compensation credited to the workday immediately preceding the holiday.

We do not find the Organization position persuasive. The Claimants did not qualify under the provisions of Section 3 and the Organization, we believe, is in error in contending Claimants met the qualifying requirements when they worked Saturday, November 17, 1984. When Claimants, as well as other members of the Gang, agreed to work that Saturday instead of Wednesday, November 21, they switched their schedule so that Saturday, which ordinarily would have been a rest day, became a workday instead. By the same token, Wednesday, November 21, 1984, became a rest day by virtue of this schedule change. There is no evidence that compensation for hours worked that Saturday was credited to Wednesday. Therefore, it was incumbent upon the Claimants to report for work on Tuesday, November 20, 1984, in order to satisfy the holiday qualifying requirements. The Claim must be denied.

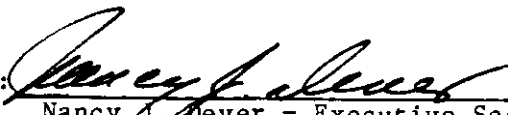
A W A R D

Claim denied.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of August 1990.