

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29704
Docket No. CL-29769
93-3-91-3-146

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International
(Union
(
(CSX Transportation, Inc. (former Louisville &
(Nashville Railroad)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood
(GL-10551) that:

1. Carrier violated the Agreement July 4, 1988 at Mobile, Alabama when it failed and/or refused to compensate Clerk A. L. Dickerson eight (8) hours' holiday pay.
2. As a result of the above, the Carrier shall be required to compensate Clerk Dickerson eight (8) hours' pay for a total of \$114.32."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claimant seeks 8 hours holiday pay for the Independence Day Holiday, July 4, 1988. At the time Claimant was assigned to a Guaranteed Extra Board. On July 3, 1988, she called the Crew Caller and advised that she would observe the Fourth of July Holiday. The Crew Caller referred her to the Supervisor on duty who advised that he was unaware of any Agreement provision allowing her to elect to observe the holiday. On July 4, 1988, Claimant was called to protect a vacancy. She was not available and was taken off the Extra Board for her failure to report. She was denied holiday pay on the premise she was not available for work on the day preceding the holiday.

The Organization maintains that the third paragraph of the October 9, 1980 letter contained in Addendum 3-A (Non-Operating Holiday supplement to its Agreement) entitled Claimant to request not to be required to work on the holiday. The text of the October 9, 1980 letter provides, in pertinent part:

"It was agreed that, on holidays when a reduced force is required, carrier will decide the areas in which work will be required and the number of employees required to accomplish this work. The employee assigned to the highest rated position(s) in that area who is qualified to perform all work required in that area will be required to work on the holiday. Where two such employees in that area are rated the same and both are qualified on all work required, the senior employee will be required to work on the holiday.

In the event the senior employee requests not to be required to work on the holiday, junior qualified employees in seniority order will be offered the holiday work and paid the rate applicable to the highest rated work performed during the shift worked on the holiday. If all in that area decline to work, the junior qualified employee will be required to work."

Carrier argues that the above is inapplicable to Extra Board employees, contending that it is designed to cover only regularly assigned employees. With this the Board agrees. A fair reading of the Addendum indicates that in the first paragraph it groups regularly assigned employees for holiday work, provides that the work will be paid at the rate of the highest rated position, and that either the occupant of the highest rated assignment or the senior employee will work the holiday. The second paragraph permits the senior employee required to work the holiday to be excused at that employee's request.

It is clear that the structure of the Addendum is such that before a request may be made (under the second paragraph) to be relieved of work on a holiday, a requirement to work on the holiday must first be developed by the procedures of the first paragraph. These conditions, manifestly, would not develop in the case of an employee assigned to an extra board.

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The facts in this case are, therefore, conclusive that Claimant was not available for duty on the day preceding the holiday. Further, she was not available for work on the holiday. The Claim is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever, Secretary To The Board

Dated at Chicago, Illinois, this 16th day of July 1993.