

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30769
Docket No. MW-29973
95-3-91-3-367

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(CSX Transportation, Inc. (former Louisville
(and Nashville Railroad Company) (former Monon
(Railroad)

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

(1) The Carrier violated the Agreement when it refused to allow Carpenter D. E. Wagner twenty (20) days' vacation pay in 1989 for which he qualified in 1988 (Carrier's File 12(90-638) MNN].

(2) As a consequence of the aforesaid violation, the Carrier shall compensate Mr. D. E. Wagner twenty (20) days' pay at the carpenter's rate, i.e., \$2068.80."

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 has a seniority date of June 14, 1968. During 1988 Claimant was furloughed and received compensation in excess of 100 days as a protected employee. Claimant worked no days during 1988. In 1989 Claimant requested and was denied 20 days of vacation for time he states he earned as a protected employee during 1988.

Between these parties, it has been held that "compensation" paid to a protected employee alone is insufficient to qualify that employee for vacation benefits. See Third Division Award 29659:

"The Claimant herein was compensated for 1988, but he unequivocally did not "perform or render service or work." Thus, he does not qualify for vacation in 1989."

See also, Third Division Award 29761 ("... [C]ompensation received solely as a consequence of being in a protective status does not qualify an employee for the vacation benefit provided by the Schedule Agreement.").

We find that those Awards govern. The claim will be denied.

AWARD

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 6th day of April 1995.