

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31063
Docket No. SG-30425
95-3-92-3-186

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(Port Authority Trans-Hudson Corporation

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the PATH Railroad:

Claim on behalf of M. Breen for thirty-two (32) hours, and R. Czochanski, R. Saul, J. Nieves, M. Galluccio, B. Hodgkinson and G. Olano for sixteen (16) hours at the time plus one-half rate of pay, account of Carrier violated the current Signalmen's Agreement, particularly Article VIII, when it failed to allow them the extra vacation days to which they were entitled. BRS File Case No. 8589."

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.

Claimants seek pay in lieu of vacation days which the Carrier allegedly deprived them from taking during the 1990 calendar year. More specifically, the seven Claimants charge that the Carrier did not grant them their full allotment of vacation as provided by Article VIII, Section B of the Agreement which reads:

"Vacation with pay for all employees covered by this agreement (except as provided in Article XIII) will be as follows:

For those employees with less than one (1) year of PATH seniority the following schedule shall apply:

Employed Between

Jan. 1-Jan.	15	11 days
Jan. 16-Feb.	14	10 days
Feb. 15-Mar.	15	9 days
Mar. 16-Apr.	15	8 days
Apr. 16-May	15	7 days
May 16-June	15	6 days

No employee with less than one (1) year of PATH seniority shall be allowed to take a vacation prior to the completion of ninety (90) days service.

After the first year of PATH seniority the following schedule will apply:

Length of Service on January 1 of given year	Vacation Allowance
5 years or less	12 days
Over 5 years but not over 10	18 days
Over 10 years but not over 20	23 days
Over 20 years	28 days

In addition to the vacation allowance shown above an employee in the year before he becomes entitled respectively to 18, 23 or 28 days vacation allowance, shall be allowed the following number of extra days:

PATH Seniority established between:	Extra Days
January 2 and February 28	5
March 1 and April 30	4
May 1 and June 30	3
July 1 and September 30	2
October 1 and December 31	1

1. PATH shall determine the number of employees in each class of employment, and job title therein, who will be on vacation at any one time. Subject to this determination, vacation assignments shall be based upon an employee's seniority dated in the Signal Helper class.
2. In determining the vacation allowance to which an employee is entitled, length of service shall be measured from the date of acquisition of PATH seniority as defined in Article VI hereof.
3. An employee who commences a regular tour of duty subsequent to being on furlough status, shall not be allowed to take vacation prior to the completion of ninety (90) days service.
4. Vacation rights which have vested hereunder shall not be lost by reason of retirement or death."

The record reflects that Claimants reached their 10th or 20th anniversaries of PATH seniority during the calendar year 1991. Thus, under Article VIII, Section B, January 1, 1992 was the first New Year's Day where they had accumulated a full 10 or 20 years of PATH seniority. Thus, 1992 was the first calendar year that they were eligible for the full 10 and 20 year vacation day allotment. The record also reveals that the Carrier properly granted Claimants extra vacation days during 1991, according to the day of the year that each Claimant first established PATH seniority.

While the Organization's vacation calculations seem logical, further examination reveals that the calculations would accelerate the vacation allotment by measuring service according to calendar years instead of PATH seniority years, that is, anniversary years. Under the Organization's interpretation, an employee hired on December 30 of one year would have effectively achieved one full year of service on January 1, just two days later.

Clearly, Article VIII, Section B predicates vacation benefits solely on years of service measured by PATH seniority and then allots extra vacation days in recognition that employees are hired at different points during a calendar year.

In sum, the Carrier properly afforded Claimants the correct number of vacation days during 1990 and 1991.

AWARD

Claim denied.

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ORDER

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 1st day of September 1995.