

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35183
Docket No. SG-34986
00-3-98-3-743**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company (former Missouri Pacific)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad (former Missouri Pacific):

Claim on behalf of A. K. Helm for payment of 16 hours at the time and one-half rate, on account that the Carrier violated the current Signalmen’s Agreement, particularly the National Vacation Agreement, when it did not compensate the Claimant for his vacation days on November 28 and 29, 1996. Carrier’s File No. 1058560. General Chairman’s File No. 97-29-M-A. BRS File Case No. 10787-MP.”

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 were given due notice of hearing thereon.

On February 3, 1997, the Organization filed a claim on behalf of the Claimant, contending that the Carrier violated the parties’ Vacation Agreement when it failed to pay the Claimant 16 hours vacation pay for the period November 28 through 29, 1996, on or before January 1, 1997.

The Board reviewed the record in this case, and we find that the Carrier violated the Agreement when it failed to compensate the Claimant for his vacation days on November 28 and 29, 1996.

The Claimant took a vacation between November 25 and 29, 1996. The on-property record reveals that, for whatever reason, two of those days, November 28 and 29, were shown as holidays on the Carrier's payroll records. Thus, the Carrier counted only three vacation days as part of that week. The Claimant was refused payment for the two additional vacation days and was not allowed to take those days off at a later time.

The Claimant earned that vacation as he worked throughout the year. He would be entitled to that vacation pay even if he quit, therefore, he is entitled to be paid for the vacation that he had accrued that he did not take.

The Board orders that the Claimant be paid the additional two days of pay at the straight-time rate. The Organization has not set forth a legitimate basis for the time and one-half payment.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

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

Dated at Chicago, Illinois, this 20th day of December, 2000.