# Award No. 9089
# Docket No. SG-8622

## NATIONAL RAILROAD ADJUSTMENT BOARD

## THIRD DIVISION

**Howard A. Johnson, Referee**

---

## PARTIES TO DISPUTE:

## BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

## THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY—Eastern Lines

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Atchison, Topeka and Santa Fe Railroad:

> In behalf of Signalman J. L. Turner for an annual vacation of ten (10) consecutive work days in 1955, or payment in lieu thereof.

**EMPLOYES' STATEMENT OF FACTS:** Signalman J. L. Turner entered the service of this Carrier in the Signal Department on May 14, 1948, and worked continually in that department until he was inducted into the military service on December 4, 1950. Signalman J. L. Turner worked one or more years of 160 days each before being inducted into the military service, thereby qualifying for one or more vacation periods prior to his being inducted into the military service.

After being released from the military service in December of 1954, and having complied with the terms of the so-called Military Agreement and applicable laws, he returned to the service of this Carrier in its Signal Department on December 13, 1954.

Signalman J. L. Turner applied for a vacation for 1955 in accordance with the policy adopted by this Carrier in 1945 and agreed to by the Brotherhood but was denied the vacation on the grounds that the August 21, 1954, National Agreement had cancelled this adopted policy which was agreed to by the Brotherhood and had been in force for 10 years.

For ready reference, we quote the adopted policy which was furnished the General Chairman by Assistant to Vice President S. C. Kirkpatrick in a letter dated November 1, 1945, as follows:

> "A veteran who returns to active service with the Santa Fe prior to the close of any year in accordance with the terms of the so-called military agreements in effect with our employes or in ac-

(2) Section 3 of the December 17, 1941 Vacation Agreement simply served to perpetuate the more favorable vacation benefits of "any rule, understanding or custom" that **was in existence at the time the 1941 Vacation Agreement was adopted** and **did not prohibit the discontinuance of vacation policies or practices which were established or created several years later** by the respondent and other carriers as a gratuity for those of their employes who were returning from the armed forces.

all of which supports the position the respondent Carrier has previously advanced herein, with regard to the provisions of Article 3 of the December 17, 1941 Vacation Agreement.

In conclusion, the Carrier respectfully reasserts that the Employes' claim in the instant dispute is entirely without support under the Agreement rules in effect between the parties hereto and should, for the reasons previously expressed herein, be either dismissed or denied in its entirety.

The Carrier is uninformed as to the arguments the Organization will advance in its ex parte submission and accordingly reserves the right to submit such additional facts, evidence and argument as it may conclude are required in replying to the Organization's ex parte submission or any other subsequent oral arguments or brief presented by the Organization in this dispute.

All that is contained herein has been both known and available to the Employes or their representatives.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimant Turner was in Carrier's service from May 14, 1948 until December 4, 1950, when he was inducted into the military service. After his release he returned to the Carrier's employ on December 13, 1954, where he performed 15 days of compensated service during 1954. The claim is that he was entitled to an annual vacation of ten consecutive work days in 1955, or payment in lieu thereof.

The facts, applicable Agreements, issues and contentions are precisely the same as in Award 9087 and necessitate the same conclusions.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November, 1959.