

Award No. 11672

Docket No. MW-10900

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Jim A. Rinehart, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

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

(1) The Carrier violated the effective Agreement when it failed and refused to allow Section Laborers C. Pfannabecker, John Chebuhar and George Davis eight hours' straight time pay for Thanksgiving Day, November 28, 1957.

(2) Section Laborers C. Pfannabecker, John Chebuhar and George Davis each be allowed eight hours' straight time pay because of the violation referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: The Claimant employees were regularly assigned to positions of Section Laborer on the sections headquartered at Seymour, Iowa, Moravia, Iowa and Blakesburg, Iowa, respectively.

On Wednesday, November 27, 1957 the Carrier's Roadmaster sent a message to the Claimants' respective Foreman instructing each to reduce their gangs to one man for the balance of that month.

Consequently, each of the claimants were laid off at the close of the work period on Wednesday, November 27, 1957 and each returned to service on Monday, December 2, 1957.

Each of the Claimants thus received compensation credited by the Carrier to Wednesday, November 27, 1957 and to Monday, December 2, 1957.

The Carrier has refused to allow each of the Claimants eight hours' straight time pay for Thanksgiving Day, November 28, 1957.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

their proof to show that the carrier, when it reduced the force on December 24, 1955, did so for the sole purpose of denying its employees holiday pay. Rather, the carrier relied on the information given by its statistical department and did believe that there would be a reduction in tonnage in the latter part of December, 1955. Therefore, this claim must be denied."

In recognition of the fact that the issue involved in this instance is whether the claimants qualified for holiday pay under the provisions of Article II—HOLIDAYS, of the agreement of August 21, 1954, and the claimants did not meet the eligibility requirements for such holiday pay as outlined earlier in this submission, their claim is entirely devoid of merit and should be denied.

All basic data contained herein has been made known to the employees.
(Exhibits not reproduced.)

OPINION OF BOARD: Claimants were laid off at close of work period Wednesday, November 27, 1957, and returned to service Monday, December 2, 1957. They make claim for eight hours straight time pay for Thanksgiving Day, November 28, 1957. The Agreement provided for such compensation but to qualify employee must have compensation credited to the work day immediately preceding and immediately following the holiday. Claimants did not receive credited compensation the day following Thanksgiving, which was a workday.

In its essential aspects, this claim is not distinguishable from the claims which led to our Award 10175 (Daly), 10287 (Wilson) and 10505 (Hall). We see no reason for reaching a different conclusion.

Even though there may be equity in Claimants' position, this Board has no power to change the Agreement which required the employees to receive compensation credit for November 29, 1957, the day immediately following the holiday. Since the Claimants failed to qualify for holiday pay, we hold that the claim is without merit and must be denied.

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 the Employees involved in this dispute are respectively Carrier and Employees 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of August 1963.