

Award No. 11940
Docket No. CL-11215

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**NEW YORK CENTRAL RAILROAD COMPANY
(Eastern District, Boston & Albany Division)**

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

(1) That the Carrier violated the rules of the current Clerks' Agreement when it failed to call Ticket Clerk H. Belcher, Pittsfield, Mass., to sell tickets for certain trains operating on Thanksgiving Day, November 27, 1958, during the hours 6:30 A.M. - 3:30 P.M., resulting in passengers being required to board trains and purchase tickets from the Conductor on the train, i.e. B & A trains 28, 401, 400, 405 and NH train 141, and

(2) Mr. H. Belcher, Ticket Clerk, shall be additionally compensated 8 hrs. pay at the punitive rate of Ticket Clerk for November 27, 1958 account not called to perform ticket selling between the hrs. 6:30 A.M. - 3:30 P.M., which work he regularly performs on Thursday and which he was entitled to perform.

EMPLOYEES' STATEMENT OF FACTS: The regularly assigned force of Ticket Clerks at Pittsfield, Mass. on Thursday consists of the following: Mr. H. Belcher, hrs. 6:30 A.M. - 3:30 P.M. with lunch period 10:30 A.M. - 11:30 A.M., and Mr. P. Whitman, hrs. 10:00 A.M. - 7:00 P.M. with lunch period 1:45 P.M. - 2:45 P.M.

Ticket Clerk H. Belcher was instructed by Carrier not to report for duty on the holiday, Thanksgiving Day, November 27, 1958, and Ticket Clerk P. Whitman was given a call to report on the holiday, Thanksgiving Day, November 27, 1958 at 4:30 P.M. and work until 6:30 P.M. which he did in order to sell tickets for B & A train Nos. 404 at 5:25 P.M. and 27 at 5:43 P.M. and New Haven train 147 at 5:23 P.M.

The following listed trains operated through Pittsfield Station on the holiday, Thanksgiving Day, November 27, 1958, and with one exception normally operate on a Thursday during Mr. H. Belcher's tour of duty, 6:30 A.M. - 3:30 P.M.:

"The Second Division of this Board had the identical question before it in Award 1606. The Board there said: 'To us this agreement means that in respect to working employes on holidays, the Carrier has two alternatives: It may work them, or it may not. But if it chooses the former alternative, it means a penalty in the form of paying time and one-half rates for the holiday hours worked.' This interpretation of the rule has been followed in the following awards of this Division: Awards 5668, 6385, 6586. We are obligated to hold, therefore, under Rule 27(b) by express exception contained therein, Carrier has the right to reduce the work days below five per week in a week in which specified holidays occur."

"It was held in Award 5668 that holidays are not considered working days. Such being the case, Claimant's assignment did not require him to report for work on July 4. He could properly be notified to work the full day or be given a call. In either event the holiday rate of time and one-half applies, including the benefits contained in the call rule."

"The claimant was properly paid and no basis for an affirmative award is found." "Claim denied."

CONCLUSION

Carrier has shown that its action on Thanksgiving Day, November 27, 1958 in blanking the position of Ticket Clerk Belcher at Pittsfield, was in strict compliance with the Clerks' Agreement. The claim is without merit and should be denied.

All data contained herein has been made known to the Organization either in conference or in writing.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was assigned as Ticket Clerk at Pittsfield, Massachusetts during the hours 6:30 A.M. to 3:30 P.M., exclusive of the meal hour. He was instructed not to report for duty on Thanksgiving Day, November 27, 1958, and was paid eight hours at the pro rata rate for that holiday as provided for in Rule 26 of the Agreement.

On the holiday the regular trains plus a holiday train boarded passengers at Pittsfield between the hours of 6:30 A.M. and 3:30 P.M. The ticket office being closed the boarders paid their fares to the Train Conductors.

Historically, passengers boarding trains at Pittsfield and other stations on Carrier's lines had the election of paying their fares either by purchase of a ticket or by cash payment to the Train Conductor.

Petitioner argues that since the trains operated on the holiday and passengers boarded them at Pittsfield, Carrier violated the Agreement when it blanked Claimant's position. We find nothing in the Agreement that supports the argument. We will deny the claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 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 12th day of December 1963.