Award No. 14516
Docket No. MW-13714

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

TENNESSEE CENTRAL RAILWAY COMPANY

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

(1) The Carrier violated the Agreement when it failed and refused to allow certain hourly rated employes (identified in the attachment hereto) eight hours' straight time pay for the Labor Day holiday of 1961.

(2) Each of the claimants be allowed the exact amount of monetary loss suffered because of the violation referred to in Part (1) of this claim.

ATTACHMENT

1. Alvin McCormick
2. Farris Givens
3. Virgil Treadway
4. Kenneth Loden
5. W. H. Albright
6. R. A. Hughes
7. H. Hembree
8. J. L. Holley
9. Othel Carr
10. Claude Treadway
11. Arnel Green
12. Dallas Loden
13. J. K. Dickson
14. J. F. Rollins
15. Robert Crawford
16. E. L. Porter
17. John R. Williams
18. L. J. Green
19. Leonard Williams
20. Billy Ray Phillips
21. G. C. Hawkins, Jr.
22. Normie Bennett
23. Granville Bowman
30. Luna Oaks
31. Armstrong Herd
32. Robert Bates
33. Charlie Massey
34. Ernest Gamble
35. Albert Strawther
36. Charlie White
37. Joe Crudup
38. E. C. Hood
39. Dock Bohanan
40. Leo Phillips
41. Thomas Dishman
42. F. C. Willoughby
43. C. A. Searcy
44. Otis Patterson
45. Hershel T. Felts
46. Walter Keys
47. W. D. Bayne
48. U. S. Williams
49. J. D. Morris
50. William Vowell
51. W. H. McLean
52. H. J. Toler

24. Herbert Leffew
25. Johnny Honeycutt
26. Solon Ingram
27. James Vaughn
28. Walter Ryan
29. Baxter Herd
53. W. C. Fickey
54. Vernon Emmett
55. G. C. McLean
56. J. W. Bates
57. W. O. Holley
58. Jake Broomfield

EMPLOYES' STATEMENT OF FACTS: The Claimants named in the attachment to our Statement of Claim were the holders of regular assignments bulletined to work Mondays through Fridays of each week.

Each of the Claimants had established over 60 days' seniority prior to the subject holiday.

Each Claimant is an hourly rated employe.

Claimant J. W. Bates worked on eleven (11) of the thirty (30) calendar days immediately preceding the subject holiday.

Although the Claimants were not assigned to work on the workdays immediately preceding and/or following the subject holiday, none of them laid off of his own accord or failed to respond to a call.

The Carrier has refused to allow each claimant eight hours' straight time pay for the Labor Day holiday of 1961.

The Agreement in effect between the two parties to this dispute dated September 1, 1942, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS Pertinent correspondence between the parties in connection with the handling of this case on the property is attached hereto marked Carrier's Exhibits Nos. 1 to 4, inclusive.

To effect economies in accordance with the practice it had been generally following for several years before the instant claim had its inception, Carrier reduced force by laying off most but not all of its hourly rated Maintenance of Way employes during periods commencing with various dates falling between August 15 and 19, 1961 and extending through September 4, 1961. Most but not all of Carrier's MofW&S employes were, therefore, furloughed on Labor Day, September 4, 1961, the holiday involved in this claim.

During the 30 calendar days immediately preceding September 4, 1961, all of the men identified in Attachment to President Crotty's letter of June 25, 1962 to Mr. S. H. Schulty, Executive Secretary, Third Division, as claimants in this case were hourly rated employes of Carrier's Maintenance of Way Department, except Robert Bates whose entire service during said 30 day period was as a monthly rated foreman.

No claims supported by evidence of their being qualified for holiday pay for September 4, 1961 under Article III—Holidays of the August 19, 1961 Agreement was filed by any of the claimants and in filing and handling claims on behalf of said claimants, the Organization has furnished Carrier with no evidence of their having been qualified for such pay under the provisions of the aforesaid rule.

workday following the holiday they satisfy one or the other of the following conditions:

(i) Compensation for service paid by the carrier is credited; or

(ii) Such employe is available for service.

Note: 'Available' as used in subsection (ii) above is interpreted by the parties to mean that an employe is available unless he lays off of his own accord or does not respond to a call, pursuant to the rules of the applicable agreement, for service.

For purposes of Section 1, the workweek for other than regularly assigned employes shall be Monday to Friday, both days inclusive, except that such employes who are relieving regularly assigned employes on the same assignment on both the work day preceding and the work day following the holiday will have the work week of the incumbent of the assigned position and will be subject to the same qualifying requirements respecting service and availability on the work days preceding and following the holiday as apply to the employe whom he is relieving.

For other than regularly assigned employes, whose hypothetical work week is Monday to Friday, both days inclusive, if the holiday falls on Friday, Monday of the succeeding week shall be considered the workday immediately following. If the holiday falls on Monday, Friday of the preceding week shall be considered the workday immediately preceding the holiday.

Compensation paid under sick-leave rules or practices will not be considered as compensation for purpose of this rule."

The parties hereto are in accord that the handling of this dispute on the property fulfilled the applicable requirements of the Railway Labor Act and the time limit rule of the agreement.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim covered by this docket is in behalf of 58 named employes for holiday pay on Labor Day, September 4, 1961.

Carrier reduced the force by laying off certain Claimants on August 16 and others effective with close of work on Friday August 18, 1961, and the period of the furlough extended beyond the September 4, 1961 holiday.

Based on our decision in Award 14515, only one Claimant (No. 56 J. W. Bates) met all the qualifying requirements of Article III of the August 19, 1960 Agreement, applicable to other than regularly assigned employes. His claim is accordingly sustained. All other Caimants failed to qualify, as they did not meet the eleven-days requirement in the 30-day period (August 5 through September 3, 1961) immediately preceding the holiday. Their claims are accordingly 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 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 Agreement was violated only to extent indicated.

A W A R D

Claim sustained only to extent indicated.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secreary

Dated at Chicago, Illinois, this 17th day of June, 1966.

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