

Award No. 14858
Docket No. MW-13129

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
GULF, MOBILE AND OHIO RAILROAD 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 holiday pay for Monday, January 2, 1961 to First Class Mechanic J. F. Garrett.

(2) First Class Mechanic J. F. Garrett now be allowed eight (8) hours' pay at the first class mechanic's pro-rata rate as holiday pay for the New Year's Day holiday of 1961.

EMPLOYEES' STATEMENT OF FACTS: Claimant J. F. Garrett was a regularly assigned First Class Mechanic in the Bridge and Building Department.

During the period from December 27, 1960 through December 30, 1960, he was required to suspend his regular duties and relieve Bridge and Building Foreman O. C. Reeves.

Upon the close of his work day on December 30, 1960, he returned to his regular assigned position and became actively engaged thereon as of the beginning of the work day on January 3, 1961. Both positions had Saturdays and Sundays as assigned rest days, with Monday being the first work day of the work week.

Holiday pay for the claimant for New Year's Day was disallowed and subsequently refused by the Carrier.

The Agreement in effect between the two parties to this dispute dated April 28, 1950, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: January 1, 1961, was on Sunday and under the Agreement the following day, Monday, January 2, was observed as a holiday. For the week prior to January 2, 1961, the claimant,

J. F. Garrett, had been working as a section foreman and as such was paid a monthly rate, which includes "holiday pay." Claimant was working as a foreman because the regular foreman, Mr. O. C. Reeves, was off because of sickness. Foremen report to and receive instructions from Supervisor. At the time Foreman Reeves laid off because of sickness, it was not known when he would return to work. The Supervisor, Mr. T. G. Hilton, did not know that Foreman Reeves had recovered from his illness until Reeves appeared on the job Tuesday morning, January 3, 1961.

Claimant Garrett had been relieving Foreman Reeves since December 27, 1960, and had it been necessary to call a foreman on Saturday, December 31, 1960; Sunday, January 1, 1961; or Monday, January 2, 1961, Relief Foreman Garrett would have been called. Relief Foreman Garrett occupied the position of foreman from December 27, 1960, until Tuesday morning, January 3, 1961, when the regular foreman returned. During this time Relief Foreman Garrett was paid a monthly rate, which includes "holiday pay." He is not entitled to an additional "holiday payment" for January 2, 1961, as an hourly rated employee.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant Garrett was a regularly assigned First Class Mechanic in the Bridge and Building Department. From December 27 through December 30, 1960, he was assigned to relieve Bridge and Building Foreman Reeves, who was sick. Reeves returned to work on January 3, 1961, and Claimant on that day again worked on his regularly assigned position. December 31st and January 1st were Saturday and Sunday, the assigned rest days of both positions, and January 2nd was the contract New Year's Day holiday, neither position was worked on these days. Carrier declined to pay Claimant holiday pay for New Year's Day, arguing that he was disqualified for it because on New Year's Day he occupied the foreman position, for which he received a monthly rate which, according to Carrier, "includes 'holiday pay'." In refusing the claim on the property Carrier wrote:

"... In order to qualify for a holiday pay an employee must be compensated for the work day immediately preceding and following the holiday, and on the work day immediately preceding the holiday he must be working on an hourly rated position.

Inasmuch as Mr. Garrett was working on a monthly rated position on December 30th, the work day immediately preceding the holiday, he did not qualify for holiday pay January 2nd. . . ."

To dispose of this case we cite our Award 11551 regarding the holiday rule (August 21, 1954 Agreement):

"The purpose of the August 21, 1954 Agreement was to make it possible for the employees to maintain their normal take home pay in weeks during which a holiday occurs. See Award 7721. This was not done by the Carrier here.

"A reading of the August 21, 1954 Agreement shows that before a regularly assigned employee is entitled to holiday pay he must have credited compensation for the work day preceding and succeeding the holiday. . . . This the Claimant had. While it is true that the work day preceding the holiday was worked as a monthly paid employee

the Agreement does not provide that both of the days must be as an assigned hourly or daily rated employee and we would be adding language to the Agreement to so hold."

We find no reason in this case to depart from the approach taken in Award 11551.

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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October 1966.