

Award No. 15226
Docket No. CL-15909

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5822) that:

(1) The Carrier violated the terms of the current Clerks' Agreement when it refused and continued to refuse to properly compensate Mr. L. B. Bonds, Memphis, Tennessee, for time worked on May 30, 1964, a regularly assigned rest day, which was also a holiday.

(2) The Carrier shall now be required to properly compensate L. B. Bonds for eight hours at the time and one-half rate, amount \$32.3886, in addition to that paid for service performed on May 30, 1964.

EMPLOYEES' STATEMENT OF FACTS: On the claim date, Mr. L. B. Bonds, with seniority dating from June 25, 1942 on the Southeast Seniority District No. 3, held a regular assignment of Rate Clerk, Position No. 63, working Monday through Friday (a six-day assignment), with rest days of Saturday and Sunday. (See Employees' Exhibit 1(a).) The rest days of his assignment, Saturday and Sunday, are not embraced within a regular relief assignment, the sixth day of the assignment being worked from the extra board when extra qualified employees are available. Mr. Bonds worked his assigned position No. 63, Rate Clerk, from Monday, May 25, 1964 through and including Friday, May 29, 1964, his regular work week, and was due to observe rest days of Saturday and Sunday, May 30 and 31, 1964. Mr. Bonds was then called by the Carrier to fill his regular position No. 63 on the sixth day, one of his assigned rest days and the legal holiday of May 30, 1964, as specified in Agreement rules account no qualified extra employees being available to fill the position on the claim date. Mr. Bonds was carried on the payroll at the punitive rate of position No. 63 for working his assigned Saturday rest day May 30, but was not paid the punitive rate of position No. 63 for working the legal holiday of May 30, 1964.

The claim has been handled with Management up to and including the Director of Labor Relations, but not composed. See Employees' Exhibits 2(a) through 2(i) inclusive.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: On May 30, 1964, Claimant L. B. Bonds was regularly assigned to Rate Clerk Position No. 63, 3:30 P. M. to 11:30 P. M., Monday through Friday, with rest days of Saturday and Sunday, excluding holidays. The rest days of the position were not included in a regular relief assignment.

It was necessary to work Rate Clerk Position No. 63 on May 30, 1964, and in the absence of an available extra or unassigned employee who otherwise did not have 40 hours of work that week, the regular employee, Claimant Bonds, was notified or called to perform work on one of his rest days. This rest day happened to coincide with Decoration Day holiday.

The dispute centers on the question of compensation due the claimant for work performed on his rest day, which also happened to coincide with a holiday.

The claimant was allowed one day's pay at the time and one-half rate of pay for such rest day work.

OPINION OF BOARD: Claimant held a regular assignment of Rate Clerk, a six day assignment, the rest days of his assignment being Saturday and Sunday. He worked his assignment from May 25, 1964, to and including May 29, 1964, his regular work week, and was due to observe rest days, Saturday and Sunday, May 30 and May 31, 1964. He was then called by Carrier to fill his regular position on the sixth day, one of his assigned rest days and, also, the legal holiday of May 30, 1964.

Claimant was carried on the payroll at the punitive rate of his position for working his assigned rest day but was not paid the punitive rate of the position for working the legal holiday of May 30, 1964, for which he now makes claim.

Petitioner has cited Award 10541 -- Sheridan which is a sustaining award and on all fours with the facts and issues of the instant case. This award has been upheld in the following subsequent Awards: 10679, (Moore); 11454 (Miller); 12453 (Sempliner); 12471 (Kane); 14138 (Rohman).

Carrier however, is contending that the dispute in the instant case was resolved by the action and agreement entered into between the parties on January 31, 1964, wherein they had agreed to a settlement of all past claims pertaining to service on rest days and work on holidays.

None of the numerous claims involved in that dispute concerned service on rest days and holidays simultaneously, so Carrier's position will be given no further consideration here.

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 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 has been violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1967.