

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****THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5856) that:

(a) The Carrier violated the Agreement when it failed to allow Mitchell B. Swandrak correct payment for work performed on February 22, 1965.

(b) Mitchell B. Swandrak shall now be additionally paid for eight hours at rate of time and one-half for February 22, 1965.

EMPLOYES' STATEMENT OF FACTS:

1. Claimant Swandrak was the incumbent of Yard Clerk Position No. A-279, Chicago, Illinois, Sunday and Monday being his assigned days of rest.

2. On Monday, February 22, 1965, a specified holiday and Claimant's assigned rest day, he was called to work Yard Clerk Position No. A-182 account the incumbent, Paul Reifon being on vacation. Claimant filed ticket for eight hours at time and one-half account working on a holiday in addition to pay for work on his rest day. Under date of March 16, 1965 the claim was declined by Carrier's General Agent as follows:

"Overtime ticket dated March 8, 1965, claiming Holiday and Rest Day at time and half for February 22, 1965; account being called to work on your rest day.

This ticket is being returned, declined, as it is not supported by the agreement.

You have been allowed eight hours at punitive rate for working on your assigned rest day which I am advised is correct."

3. Claim was appealed to Carrier's Terminal Superintendent by Local Chairman Burke's letter of March 22, 1965 and declined by Carrier officer's letter of March 25. It was next appealed by the General Chairman to the

Also attached as Carrier's Exhibit No. 3 is copy of letter dated February 11, 1965, of General Chairman C. B. Moore addressed "To System Board Officers and Members," which Local Chairman Burke attached to his letter of March 22, 1965. This letter resulted in the instant claim and many others which we are holding in abeyance pending settlement of the instant claim. Needless to say, the Carrier does not agree with all the questions, answers, and illustrative examples contained in the statement attached to this letter, but to argue all the issues would unduly complicate the record in this claim. The statement of questions and answers of the Grand President of the clerical employes (Exhibit No. 3), which were attached to General Chairman Moore's letter of February 11, 1965, to System Board Officers and Members, represents unilateral interpretations by the clerks' organization and, consequently, they have no force or effect insofar as adjudication of this or any other dispute is concerned.

Also attached hereto as Carrier's Exhibit No. 5 is copy of letter dated April 2, 1965, of General Chairman C. B. Moore, appealing this claim. This claim was discussed in conference on April 21, 1965.

Also attached as Carrier's Exhibit No. 6 is copy of letter dated May 25, 1965, of Assistant to Vice President-Labor Relations declining this claim.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant worked on his rest day which was also a holiday. He was paid time and one-half for working on his rest day. The Claim is for additional pay at time and one-half for having worked on the holiday. We will sustain the Claim. Award Nos. 10541, 10679, 11454, 11899, 12453, 12471, 14138, 14489, 14528, 14977, 14978, 15000 and 15052.

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 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 31st day of March 1967.

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