



Award No. 15471
Docket No. TE-12893

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

ILLINOIS TERMINAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the Committee of The Order of Railroad Telegraphers on the Illinois Terminal Railroad, that:

1. (a) Carrier violated the agreement between the parties when it failed and refused to properly compensate R. W. Merriman for working the Carlinville, Illinois, agency on Labor Day, September 5, 1960.

(b) Carrier shall compensate R. W. Merriman in the amount of \$35.25 in addition to compensation already paid.

2. (a) Carrier violated the Agreement between the parties when it failed and refused to properly compensate W. J. Howard for vacation allowance on September 5, 1960.

(b) Carrier shall compensate W. J. Howard in the amount of \$30.21 in addition to compensation already paid.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective December 16, 1957, as amended and supplemented is available to your Board, and by this reference is made a part hereof.

CLAIM NO. 1

R. W. Merriman, senior extra employe on Division No. 1, was instructed to and did work the position of agent at Carlinville, Illinois, on vacation relief beginning August 22, 1960, and continuing through September 9, 1960. He was instructed to and did work four (4) hours on Labor Day, September 5, 1960 (a holiday).

For this vacation relief he was paid fourteen days' pay at the pro rata rate. For the holiday, September 5, he was paid only for four (4) hours at the time and one-half rate pay. For the holiday he should have been compensated for a day's pay at the time and one-half rate as provided for in Rule 10 of the Agreement, and, in addition, eight (8) hours at the pro rata rate (holiday pay) according to the provisions of Article II of the August 21, 1954 Agreement, which is incorporated in the current Agreement as Rule 5,

and which was amended by Article III of the August 19, 1960 Agreement; Rule 19 of the Agreement also applies.

Claim was filed and handled in the usual manner up to and including the highest designated officer of the Carrier and has been declined.

CLAIM NO. 2

W. J. Howard is the regular assigned occupant of the position of agent at Carlinville, Illinois, with work days Monday through Friday, and assigned rest days of Saturday and Sunday. He was assigned a vacation period beginning August 22 and continuing through September 9, 1960. He was absent on vacation during this period of time.

For the time he was absent on vacation, he was compensated for fourteen (14) days at the pro rata rate as vacation allowance and eight (8) hours at the pro rata rate for holiday pay on Labor Day, September 5, 1960. He should have been compensated for fourteen (14) days at pro rata rate and one (1) day at the time and one-half rate as vacation allowance according to the provisions of Article 7 (a) of the Vacation Agreement of December 17, 1941, and eight (8) hours at the pro rata rate, according to the provisions of Article II of the August 21, 1954 Agreement, incorporated into the current agreement as Rule 5.

Claim was filed and handled in the usual manner up to and including the highest designated officer of the Carrier, and has been declined.

* * * * *

Correspondence reflecting the handling on the property is attached hereto as ORT Exhibits. In the handling with the highest officer of the Carrier, the two claims were combined or handled concurrently. ORT Exhibits Nos. 1, 2, 3 and 4 relate to Claim No. 1; ORT Exhibits Nos. 5, 6, 7 and 8 relate to Claim No. 2; ORT Exhibits 9, 10, 11 and 12 relate to the combined handling with the highest officer.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The Carlinville agency is a five-day position with rest days Saturday and Sunday. R. W. Merriman was working vacation relief for the regular incumbent, W. J. Howard. On Friday, September 2, 1960, R. W. Merriman was advised not to work September 5, 1960 (Labor Day). Subsequent to being notified that his job would not work on Monday, September 5th, Merriman was given a call for Monday, September 5th, and worked four (4) hours for which he was paid at the time and one half rate. R. W. Merriman also qualified for holiday pay and was paid eight (8) hours at the straight time rate for September 5, 1960.

W. J. Howard, regular agent at Carlinville, Illinois, was on vacation and as Labor Day, September 5, 1960, was a day in his work week, he was paid eight (8) hours straight time; same was counted as one of his vacation days.

OPINION OF BOARD: Claimant Howard is the regular assigned occupant of the position of Agent at Carlinville, Illinois, with work days Monday through Friday, and assigned rest days of Saturday and Sunday. He was assigned a vacation period beginning August 22 and continuing through September 9, 1960. Claimant Merriman worked Howard's position on vacation relief.

September 5, 1960 was Labor Day, and under the terms of the agreement, a holiday. The Carrier blanked the position on the Labor Day Holiday and then required Claimant Merriman to work 4 hours. Merriman was paid 4 hours at the time and one-half rate, in addition to 8 hours at the pro rata rate (holiday pay). The Organization contends that instead of the 4 hours' pay at time and one-half, the Claimant should have been compensated for a full day's pay at the time and one-half rate. Therefore, claim number 1 in this case is for pay for Merriman for 4 hours at time and one-half.

The Organization further contends in claim number 2 that Claimant Howard should be compensated for 1 day's pay at time and one-half in addition to the 15 days' vacation pay which he received at the pro rata rate.

In regard to claim number 1, concerning Merriman, this Board has held that the Carrier has a right to blank a position on a holiday. It has also held that the Carrier may blank the position in part. In the instant case, the Carrier compensated the Claimant for the time actually worked on the holiday, and it appears to us that such compensation was appropriate under the rules. Therefore, we will deny claim number 1.

In regard to claim number 2, it is noted that Claimant Howard has been properly paid for the holiday. The holiday in this case is considered as a work day of the period for which the employee is entitled to vacation. The holiday fell on a work day of the regularly assigned work week during Howard's vacation period.

Under the facts presented in this claim, we are compelled to hold that Claimant Howard was appropriately compensated for the vacation period and is not entitled to the additional payment under the rules of the agreement.

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 the Agreement was not violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of April 1967.

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