

Award No. 15891
Docket No. CL-16244

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5942) that:

(1) Carrier violated the current Clerks' Agreement in failing to properly compensate Mr. D. F. Modig for work performed on September 6, 1965, a National Holiday, which was also his birthday.

(2) Carrier shall now compensate Mr. D. F. Modig for four hours at the pro rata rate of the position of Chief Yard Clerk at Salina, Kansas in addition to that paid for services performed on September 6, 1965.

EMPLOYES' STATEMENT OF FACTS: There are in full force and effect bargaining agreements entered into by and between the Union Pacific Railroad Company, hereinafter referred to as Carrier, and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, hereinafter referred to as Employes. All such agreements are on file with this Division of the National Railroad Adjustment Board and, by reference, are made a part of this submission as though set out herein word for word.

The dispute herein submitted was handled on the property in the usual manner, through the highest officer designated by the Carrier to handle such disputes, failed of adjustment, and is now properly before your Board for adjudication.

The claimant, Mr. D. F. Modig, was regularly assigned the position of Relief No. 12 at Salina, Kansas. This relief position was assigned different starting hours on days of the week as follows:

Demurrage Clerk	\$476.86	8:00 AM- 5:00 PM	Saturday
Chief Yard Clerk	490.23	7:30 AM- 4:30 PM	Sun&Mon
Train & Yard Clerk	474.76	4:00 PM-12:00 AM	Tues&Wed
		Rest Days - Thursday and Friday	

On Monday, September 6, 1965, a national holiday, as well as the Claimant's birthday, it was necessary to work the Chief Yard Clerk position since the duties require seven-day performance. Modig worked his position on this date and was compensated 8 hours at the pro rata rate for the Labor Day holiday, 8 hours at the pro rata rate for his Birthday Holiday and 8 hours at the time and one-half rate for service performed on this date.

Claim was progressed by the Organization on behalf of Mr. Modig for four hours' pay at the pro rata rate in addition to the 16 hours pro rata holiday pay and 8 hours at time and one-half already allowed. This claim is predicated on the erroneous contention that the Schedule Agreement as modified by the November 20, 1964 Agreement provides for a double penalty of time and one-half payments for work performed on a National Holiday, which is also the employee's Birthday Holiday.

The handling of this dispute on the property is set forth in the following letters between representatives of the Organization and representatives of the Carrier:

Carrier's Exhibit A — Letter dated October 6, 1965 from General Chairman Bignall to Carrier's Assistant to Vice President, N. T. DeLong.

Carrier's Exhibit B — Letter dated November 18, 1965 from Assistant to Vice President DeLong to General Chairman Bignall.

Carrier's Exhibit C — Letter dated November 29, 1965 from General Chairman Bignall to Assistant to Vice President DeLong.

Carrier's Exhibit D — Letter dated December 6, 1965 from Assistant to Vice President DeLong to General Chairman Bignall.

Carrier's Exhibit E — Letter dated January 4, 1966 from General Chairman Bignall to Assistant to Vice President DeLong.

Carrier's Exhibit F — Letter dated January 7, 1966 from Assistant to Vice President DeLong to General Chairman Bignall.

Carrier's Exhibit G — Letter dated January 12, 1966 from General Chairman Bignall to Assistant to Vice President DeLong.

(Exhibits not reproduced.)

OPINION OF BOARD: This dispute concerns payment due Claimant for service performed on a legal holiday which was also his birthday. Claimant did not elect to have another day considered as his birthday which was his right under Section 6(f), Article 2, of the November 20, 1964 Agreement.

This Board has previously dealt with and discussed the question of payment for work performed on a day which was, as here, both a birthday

holiday and a legal holiday, in Awards 14921, 14922, 15013, 15388, 15401, 15451, 15520, 15563, 15585, 15589 and 15761.

We will follow the reasoning of those awards and deny the claim.

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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of October 1967.