

Award No. 16001
Docket No. MW-14312

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The claim presented by General Chairman J. G. James on November 15, 1961 to Chief Carpenter F. O. McGrew for Labor Day holiday pay (1961) in favor of B&B Carpenter Ellrey Carlson should have been allowed, as presented, account of said claim not being disallowed as required by or in conformance with Sections 1(a) and (c) of Article V of the August 21, 1954 Agreement.

[Carrier's Case No. D-1422]

(2) The Carrier be required and order to allow B&B Carpenter Ellrey Carlson eight (8) hours' pay at his straight-time rate as holiday pay for Labor Day, 1961.

EMPLOYEES' STATEMENT OF FACTS: Claim was initially filed in a letter reading:

"November 15, 1961

Mr. F. O. McGrew, Chief Carpenter
CMStP&P Railroad
Room 27, Milwaukee Depot
Minneapolis, Minn.

Dear Sir:

B&B Carpenter Ellrey Carlson was required to relieve Foreman R. C. Hugo from August 14 to and including September 1, 1961. Labor Day holiday pay was reported for Mr. Carlson but when he received his check for the first half of September, which was the first of October, he noted that he was short one day's pay. The shortage we understand is that the Accounting Department disallowed holiday pay for September 4.

OPINION OF BOARD: This case is here strictly on a time limit question under Article V relating to a claim for holiday pay for Labor Day, 1961. Carrier, for its part, contends that the claim was not timely presented, i.e., within sixty days from the date of the holiday, while the Organization contends the claim is payable by reason of the Carrier officer's failure to disallow it within sixty days.

The records reveals that pay for the holiday for Claimant was included in regular time rolls and it was not until he received his pay check for the first half of September, which was on 29 September, 1961, was Claimant aware of the shortage and advised he would not be paid for the holiday. Claim for the holiday pay was presented in a letter dated 15 November, 1961, and clearly within sixty days from the day Claimant discovered the shortage. Based on these facts, we hold that the claim was timely presented. See Award 15141 (House) which involved the present parties.

Since the claim was timely presented and the Carrier officer did not timely disallow the claim, we find that the claim is payable under Article V.

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 the 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 8th day of December 1967.