

Award No. 16377

Docket No. SG-16924

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Bill Heskett, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN**

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY**  
**(Eastern Lines)**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka and Santa Fe Railway Company:

**CLAIM NO. 1**

On behalf of Signal Maintainer D. R. Henton, Eastern Division, for an additional twelve (12) hours' pay at the pro rata rate of \$2.9288 per hour for August 13, 1965, his birthday, on which a Relief Signal Maintainer was assigned to work and which occurred while he was on vacation. (Carrier's File: 132-130-A-1.)

**CLAIM NO. 2**

On behalf of Signal Maintainer A. A. Cleeton, Eastern Division, for an additional twelve (12) hours' pay at the pro rata rate of \$2.9988 per hour for October 6, 1965, his birthday, on which a Relief Signal Maintainer was assigned to work and which occurred while he was on vacation. (Carrier's File: 132-130-A-2.)

**EMPLOYEES' STATEMENT OF FACTS:** This dispute involves the question of how an employee is to be paid if on a vacation day his birthday occurs and another employee is assigned to work his position on that day.

Signal Maintainer D. R. Henton with headquarters at Osage City, Kansas, was on vacation on August 13, 1965, his birthday. He was paid only eight (8) hours at the pro rata rate. Inasmuch as there was a vacation relief employee assigned to work his position and that employee worked on August 13, Signal Maintainer D. R. Henton claims an additional twelve (12) hours' pay at the pro rata rate — eight (8) hours at the time and one-half rate. This is Claim No. 1.

Signal Maintainer A. A. Cleeton with headquarters at Turner, Kansas, was on vacation on October 6, 1965, his birthday. He, too, was paid only eight (8) hours at the pro rata rate. Inasmuch as there was a vacation relief employee

allowed any additional compensation for their birthday, nor were they given an additional day off with pay. Both their positions were filled by relief employees for the vacation period, each working eight (8) hours and each paid eight (8) hours; however, had either Claimant not been on vacation, they would not have been required to work their birthday holiday. Neither Claimant is assigned to work any of the seven recognized National Holidays.

The claims in the instant dispute were initially presented to the Carrier's Superintendent in letters dated October 3, 1965 (Claim No. 1) and November 11, 1965 (Claim No. 2) and attached as Carrier's Exhibit A. Claim No. 1 (pages 1 through 10) and Claim No. 2 (pages 1 through 10) is an exchange of pertinent correspondence in the appeal of the claims with the initial and succeeding higher officers of appeal including the Carrier's Assistant to Vice President and highest officer of appeal, Mr. O. M. Ramsey.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Carrier filled Claimants' positions by relief employees while they were on vacation, including their birthdays which fell during said vacation periods. Claimants were paid 8 hours' pro rata vacation but the Organization contends that in addition thereto, they are entitled to time and one-half.

This same issue was before us in Award 15722 (Miller) and the claim was sustained. We followed the reasoning of the Miller Award, *supra*, in Awards 15910 (McGovern) and 16131 (House). We see no reason to depart from same. Therefore, we will sustain the claims.

**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 violated by the Carrier.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of June 1968.

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