

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

THE HOUSTON BELT & TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6266) that:

1. Carrier violated the Clerks' Agreement when it refused to properly compensate Mrs. Mary Sumrall for service performed on December 26, 1966.

2. Carrier shall now be required to compensate Mrs. Mary Sumrall eight (8) hours at the rate of time and one-half for service performed on Christmas holiday, in addition to the eight (8) hours already received for working her rest day, December 26, 1966.

EMPLOYEES' STATEMENT OF FACTS: Christmas fell on Sunday in 1966; therefore, Monday, December 26, 1966 was considered as the holiday under Rule 47 (b).

Mrs. Sumrall was the regular occupant of Utility Clerk position No. 470, rest days Monday and Tuesday. Utility Clerk 470 is a seven day position with no regularly assigned relief to fill the position on Monday and Tuesday.

On Monday, December 26, 1966, one of the designated holidays covered by the rules, Mrs. Sumrall was required to work on her position for which service she was compensated at the time and one-half rate.

Claim was filed January 17, 1967, and handled in the usual manner up to and including the highest designated officer on the Carrier. Employees' Exhibits Nos. 1 through 5.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Mrs. Mary Sumrall held a regular assignment of Job 470 with rest days Monday and Tuesday. On Monday, one of her assigned rest days, December 26, 1966, she was called in line with her seniority and in line with the agreement to perform work on a job which was not part of her assignment, in the capacity of an available extra clerk called from a willing workers' list. She was compensated for eight hours of work performed at time and a half rate under the rest day rule.

Exhibit A is a letter from General Chairman T. G. Brown, dated January 17, 1967, questioning the method of compensating claimant for work performed on December 26, 1966. Superintendent Reese replied under date of January 30, stating the method of compensation. (Exhibit B.)

Exhibit C is General Chairman's appeal dated February 6, 1967, wherein he refers to Rule 37(c-5) and Rule 43 and 47. Reply was made February 27, 1967 (Exhibit D), declining the appeal.

Conference was held March 3, 1967, and confirmed by letter of March 6 (Exhibit E), which resulted in Organization's notification that they would submit this dispute ex parte to Third Division, National Railroad Adjustment Board.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was regularly assigned to Utility Clerk Position No. 470 with an assigned workweek Wednesday to Sunday and rest days of Monday and Tuesday. Christmas fell on Sunday in 1966 and, therefore, Monday, December 26 was considered as the Holiday. Claimant performed service on Monday, December 26, 1966, for which she was paid eight hours at the time and one-half rate. She now seeks an additional eight hours at the time and one-half rate.

The issues involved in this dispute are the same as those involved in many prior awards of this Board, such as: Awards 10541, 10679, 11454, 11899, 12453, 12471, 14138, 14489, 14528, 14977, 14978, 15000, 15052, 15144, 15226, 15340, 15361, 15362, 15376, 15450, 15527, 15528, 15531, 15553, 15660, 15661, 15754, 15800 and 16302.

Accordingly, we will sustain 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1968.

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