

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ERIE-LACKAWANNA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Erie-Lackawanna Railroad Company:

On behalf of Leading Signal Maintainer C. E. Doxey for an adjustment of eight (8) hours' time and one-half pay for services rendered on July 5, 1965.

[Carrier's File: 220.19, Item 118. General Chairman's File: No. 247-A.]

EMPLOYEES' STATEMENT OF FACTS: Claimant C. E. Doxey is the Leading Signal Maintainer at West End Interlocking. On July 5, 1965, he was required to work his position even though it was observed as Independence Day and was also his birthday. He was paid eight hours' pro rata holiday pay for Independence Day, eight hours' pro rata holiday pay for his birthday, and eight hours' overtime pay for services performed on Independence Day.

This dispute is based on our contention Carrier is contractually obligated to compensate him an additional eight hours' overtime pay for service performed on his birthday.

The claim was initiated by Local Chairman J. J. Swiss on July 19, 1965, subsequently handled in the usual and proper manner on the property, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement. Pertinent correspondence exchanged on the property is attached hereto as Brotherhood's Exhibit Nos. 1 through 19.

There is an agreement in effect between the parties to this dispute, bearing an effective date of March 1, 1953, as amended, which is by reference made a part of the record in this dispute. Amendments include Article II of the August 21, 1954 Agreement and Article II of the November 20, 1964 Agreement.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: At the time of claim C. E. Doxey, hereinafter referred to as claimant, was working as Leading Signal Maintainer, First trick, Monday through Friday, West End Interlocking, Jersey

City, New Jersey. Claimant worked his position on July 5, 1965, the day observed by Nation as Fourth of July, which happened to be his birthday but which he did not elect to change and for this he was paid one (1) day at straight time for Fourth of July, one (1) day at straight time in lieu of his birthday holiday as such, and eight (8) hours' time and one-half for work performed on the Fourth of July holiday.

Under date of July 19, 1965 (Exhibit A) claim was instituted with Signal Supervisor by the Local Chairman and denied on July 30, 1965. It was thereafter handled on appeal up to and including Carrier's highest officer designated to handle such matter, where it was denied and discussed in conference on October 21, 1965 with denial confirmed on October 25, 1965 (Carrier Exhibit B).

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was regularly assigned as a Leading Signal Maintainer with a work week Monday through Friday and rest days of Saturday and Sunday. Claimant worked his regularly assigned position on Monday, July 5, 1965, the day observed by the Nation as Independence Day. This day was also Claimant's birthday. Claimant was paid 8 hours' pro rata pay for the Independence Day Holiday; 8 hours' pro rata pay for the Birthday Holiday; and 8 hours at time and one-half rate for work performed on the Holiday. His claim is for an additional 8 hours at the time and one-half rate account working on his birthday.

The same issue involving these same parties was before us in our Award 16240 and was denied on the basis of prior Awards 15013, 15401, 15589, 15908, 15942, 15949 involving other parties. We have consistently held that if an employee's birthday falls on a legal holiday he can elect to celebrate his birthday on another day as set out in Article II, Section 6 (f) of the November 20, 1964 National 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1968.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.