

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION**

Nathan Engelstein, Referee

PARTIES TO DISPUTE:**BROTHERHOOD OF RAILROAD SIGNALMEN****CHICAGO AND NORTH WESTERN RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Railway Company that:

CLAIM NO. 1

(a) Carrier violated the current Signalmen's Agreement between the parties when it failed to properly compensate H. S. Gerth, Leading Signal Maintainer (Madison, Wisconsin, Northwestern Seniority District) for work performed on a holiday, Saturday, Christmas Day, December 25, 1965.

(b) Carrier compensate H. S. Gerth for three (3) hours at time and one-half rate in addition to the amount he already received.

(Carrier's File: 79-9-44)

CLAIM NO. 2

(a) Carrier violated the current Signalmen's Agreement between the parties when it failed to properly compensate P. R. Singletary, Leading Signal Maintainer (Clyman Junction, Wisconsin, Northwestern Seniority District) for work performed on a holiday, Saturday, Christmas Day, December 25, 1965.

(b) Carrier compensate P. R. Singletary for three and one-half (3½) hours at time and one-half rate in addition to the amount he already received.

(Carrier's File: 79-9-45)

EMPLOYEES' STATEMENT OF FACTS: These claims involve the question of how employees are to be paid for service they render on days which are legal holidays and their rest days, as well.

In Claim No. 1, Leading Signal Maintainer H. S. Gerth was called on Saturday, December 25, 1965, to take care of snow burners at "MX" Interlocking, Madison, Wisconsin. He worked from 8:00 A. M. until 11:00 A. M. for which he was paid three (3) hours at the time and one-half rate.

The claims have been denied.

OPINION OF BOARD: H. S. Gerth, Leading Signal Maintainer, was required to work three hours on Saturday, December 25, 1965, a holiday, and one of his rest days to take care of snow burners on MX Plant, Madison, Wisconsin.

P. R. Singletary, Leading Signal Maintainer, also performed work on the holiday, December 25, 1965, which was his rest day. He worked for three and one-half hours taking care of snow burners on the Clyman Junction Plant.

Both employees were allowed payment for the hours they worked at the time and one-half rate for service performed. They claim additional compensation for three and one-half hours on the grounds that there are separate provisions in the Agreement for payment on rest days and legal holidays. In support of their claims Petitioners Cite Rules 5½ (K) Service on Rest Days, Rule 15: Called to Report for Work Outside Regular Hours, and Rule 13: Holiday Work.

Carrier takes the position that Claimants were properly paid in accordance with Rules 13 and 15. Although the provisions for payment at time and one-half rate on a rest day and time and one-half rate on a holiday are contained in separate rules it urges that these Rules do not entitle employees to duplicate payment when a rest day falls on a holiday. Carrier also points out that Rule 13 provides for payment of a minimum of two hours forty minutes at time and one-half and that Claimants received that minimum. It also asserts that Rule 15 does not provide a minimum guarantee for service performed on a holiday but stipulates that the rate of pay should be time and one-half. This time and one-half rate Claimants received, and therefore, this party argues the Agreement was not violated. Furthermore it states the practice of making a single payment at time and one-half rate has been in effect for forty-three years.

The issues and rules involved in this dispute have been considered in numerous awards, a preponderate number of which have sustained claims for additional payment under two separate rules for service performed on a rest day which falls on a holiday. See Award Numbers 10541, 15376, 15440, 15892, 16302 and 16495, 15553, 15527, 15528. For reasons stated in these Awards we hold that the Agreement was violated and the claim is allowed.

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 31st day of October 1968.

**CARRIER MEMBERS' DISSENT TO AWARD 16723
(DOCKET SG-16768) (Engelstein)**

We dissent.

**G. L. Naylor
R. E. Black
P. C. Carter
W. B. Jones
G. C. White**

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