

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John B. Criswell, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Chicago, Burlington and Quincy Railroad, that:

1. Carrier violated the Agreement between the parties when it failed and refused to allow Mr. M. D. Potthoff, relief wire chief, McCook, Nebraska, proper compensation for his vacation period.

2. Carrier shall compensate Mr. Potthoff for one day's pay (eight hours) at the punitive rate of \$4.4802 an hour in addition to amount already paid.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective May 1, 1953, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Mr. M. D. Potthoff, hereinafter referred to as claimant, is regularly assigned as relief wire chief at McCook, Nebraska, with an assigned work week of Friday through Tuesday, rest days Wednesday and Thursday. Claimant was notified by Carrier to take his vacation starting March 26, 1965 through April 6, 1965. Claimant's position was worked by an relief operator during the vacation period. Friday, April 2, 1965, was the birthday and also a work day of claimant's work week. Claimant was paid eight hours at straight time rate for April 2, 1965.

Claim was filed and handled in the usual manner up to and including the highest designated officer of the Carrier and has been declined. Correspondence reflecting this handling on the property is attached hereto as TCU Exhibits 1 through 7.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The claimant in this case is regularly assigned as relief wire chief at McCook, Nebraska. He was granted a vacation period of his choice from March 26 through April 6, 1965, inclusive. Friday, April 2, 1965, was his birthday and, also a work day of his assigned work week. In other words, his birthday fell within the period he was on va-

cation and being a work day of his assignment, it was considered a vacation day in conformity with the provisions of the vacation Agreement. He was paid 10 days' vacation at the pro rata or straight time rate.

During the period claimant was on vacation, he was relieved by an extra, or vacation relief employee, who was paid 10 days at the pro rata or straight time rate. The relieving employee was not paid punitive rate for April 2, 1965 due to the fact that it was not a birthday-holiday for him.

The schedule of rules agreement between the parties effective May 1, 1953 and amendments thereto including the vacation agreement of December 17, 1941 and amendments thereto and the holiday provisions of the August 21, 1954 Agreement and its amendments are by reference made a part of this submission.

OPINION OF BOARD: Claimant was granted a vacation from March 26 through April 6, 1965, inclusive, during which time his birthday, April 2, 1965, occurred on a work day of his position and was worked by the vacation relief employee.

He was allowed one day's pay, as a vacation day, for the birthday holiday. He claims an additional day's pay at time and one-half rate.

The same issue has been before the Board a number of times, and has been decided in favor of the Employees' position. Awards 15722, 15910, 16131, 16377, 16472, and those cited therein. Accordingly, the claim must be sustained.

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 25th day of March 1969.

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