



Award No. 17088

Docket No. CL-17597

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**John B. Criswell, Referee**

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**PARTIES TO DISPUTE:**

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

**ERIE LACKAWANNA RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6405) that:

1. Carrier violated the rules of the Clerks' Agreement at Marion, Ohio, when on October 18, 1965, Carrier blanked the position of V. S. Baker (Clerk Typist) on her birthday holiday.
2. Carrier shall now be required to compensate employee V. S. Baker one day at time and one half rate in addition to compensation paid. (Claim 1729)

**EMPLOYEES' STATEMENT OF FACTS:** Employee Violet S. Baker is regularly assigned to position of Clerk-Typist in the freight house, Marion, Ohio, with a work week Monday to Friday, hours of assignment, 8 A.M. to 5:30 P.M., rest days, Saturday and Sunday.

Monday, October 18, 1965 was employee Baker's Birthday Holiday and she was instructed by the Carrier not to report for work to cover her assignment on that day. All of the regularly assigned employees whose positions are located in the freight house at Marion, Ohio with the exception of Mrs. Baker, worked on Monday, October 18, 1965.

The compilation of the G2 Report and billing are an integral part of the various duties assigned to the position of Clerk-Typist. Instead of suspending work on the position of Clerk-Typist on October 18, 1965 which the Carrier is permitted to do while an assigned employee is absent account of a Birthday Holiday, it required other employees on duty that date to perform work involving the G-2 Report and billing. Carrier neglected to use the regular assigned incumbent of the position when work was required to be performed on the holiday.

Claim was filed by the Local Chairman on November 20, 1965 with Agent Champer (Employees' Exhibit A) who denied the claim on January 5, 1966 (Employees' Exhibit B). On January 28, 1966, the Local Chairman notified the Agent that his decision was not acceptable and would be appealed (Employees' Exhibit C).

Under date of November 20, 1965, the Local Chairman instituted the instant claim (Carrier Exhibit A) for eight hours time and one-half account claimant not worked on the holiday and other clerical positions allegedly performing claimants' duties. Claim was denied under date of January 5, 1966 (Carrier Exhibit B) and thereafter handled on appeal in the usual and prescribed manner to Carrier's highest officer designated to handle such matters and in accordance with agreed upon procedure, listed for conference which was held on February 1, 1967 and following an exchange of further correspondence denied under date of April 13, 1967.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimant was a regularly assigned Clerk Typist at Marion, Ohio, whose birthday fell on October 18, 1965, which was work day. Claimant was given her birthday off, but charges that other employees were required to perform duties regularly assigned to her.

It is evident from letters written by Carrier representatives (Agent Champer and Superintendent Henderson) that work was "absorbed" by other employees, and that the work normally done by Claimant was not suspended for the day.

We must conclude, as this Board has in previous award (16811), that the claim is meritorious and is 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.

### **A W A R D**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST:** S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1969.