

Award Number 17320

Docket Number TE-16760

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

**PARTIES TO DISPUTE:**

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION  
PORTLAND TERMINAL RAILROAD COMPANY

**STATEMENT OF CLAIM:** Claim of the General Committee of the Transportation-Communication Employees Union on the Portland Terminal Railroad, that:

1. Carrier violated the terms of an Agreement between the parties hereto when it failed and refused to properly compensate G. R. Swanson for service performed on Tuesday, February 22, 1966, a holiday, also one of his assigned rest days.
2. Carrier shall, because of the violation set out above, compensate G. R. Swanson for eight (8) hours at the time and one-half rate, in addition to the amount he has been paid for service performed on February 22, 1966.

**EMPLOYEES' STATEMENT OF FACTS:** An Agreement between the Portland Terminal Railroad Company (formerly the Northern Pacific Terminal Company of Oregon—changed effective November 1, 1965), hereinafter referred to as Carrier, and its employees in the classes named therein, represented by the Transportation-Communication Employees Union (formerly The Order of Railroad Telegraphers), hereinafter referred to as Employees and/or Union, effective March 1, 1957, as amended and supplemented, is available to your Board and is, by this reference, made a part hereof.

The question at issue in this dispute, namely, has Carrier bound itself by said Agreement to pay compensation under two (2) separate rules when an employee is required to work on one of his assigned rest days, which is also one of the seven (7) national holidays covered by the Agreement?

This identical issue under the same rules and factual circumstances extant in the confronting dispute has been presented to your Honorable Board on a number of occasions with the result that a long line of sustaining decisions have come forth in support of the Employees' position, namely, that an employee who works on one of his assigned rest days, which is also one of the seven (7) national holidays covered by the Agreement, is entitled to the pay provisions of service on rest day rules as well as the pay provisions of work on holiday rule.

Awards supporting this view are the following: Awards 15144 and 15052 (Hamilton), 15000 (Zumas), 14978 and 14977 (Ritter), 14489 (Wolf), 14528 (Perelson), 14138 (Rohman), 12471 (Kane), 12452 (Sempliner), 11899 (Hall),

"We cannot and do not agree with your interpretation of the rules cited by you. All of your objections have already been considered and disposed of in a number of Third Division Awards: Nos.

10541, 10679, 11454, 11899, 12453, 12471, 14138, and 14489. In Award 14489, Referee Wolf, after citing favorably the above-numbered awards, states that 'The Principle of stare decisis is a most commendable one. It puts an end to controversy where a provision of an agreement permits more than one interpretation and ends the parade of disputes seeking to upset the established view.'"

"Please notify me if this claim will be allowed and the payroll period in which the allowance will be made.

9. Conference was duly held, procedural difficulties were resolved and the claim again denied on October 24, 1966.

**OPINION OF BOARD:** Claimant, a regularly assigned Telegrapher, with rest days on Tuesday and Wednesday, was required to work on Tuesday, February 22, 1966, which day was a holiday in addition to one of his regular rest days. Rule 9 (1) of the Agreement provides that service rendered on a rest day will be paid for at the overtime rate. Rule 10 (a) of the Agreement provides that service rendered on specified holidays, one of which is Washington's Birthday, will be paid for at the time and one-half rate. For service performed on the date in issue Carrier paid Claimant eight hours at the time and one-half rate and the claim presented to the Board is for an additional payment of eight hours at time and one-half.

Beginning with Award 10541, dated April 25, 1962, which has been followed in many subsequent awards, among the latest being Awards 16785, 16797, 16801, 16803, 16986 and 16987, the position of the Employees has been sustained. We find nothing in the record before us to cause us to reach a different result. The claim will 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.

#### 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 24th day of July 1969.

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