



Award Number 17368

Docket Number TE-16733

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Louis Yagoda, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES
UNION

THE LONG ISLAND RAIL ROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Long Island Railroad, that:

1. Carrier violated the agreement between the parties when it failed to properly compensate D. Matzen, Extra Block Operator, for work performed December 25, 1965, his sixth working day in his work week, which was also a holiday.
2. Carrier shall be required to compensate D. Matzen for eight hours at the time and one-half rate, in addition to the amount already paid.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties dated July 25, 1961, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

This claim was timely presented, progressed, including conference with the highest designated officer of the Carrier and has been declined. Employees therefore appeal to your Honorable Board for adjudication.

Correspondence reflecting the handling on the property is included in TCU Exhibits 1 through 7.

Mr. D. Matzen's status at the time this claim arose was that of an extra (unassigned) block operator, and under paragraph (j) of Rule 56, his work week began on Monday, December 20, 1965. During that week he worked as follows:

DAY OF WEEK	POSITION	LOCATION	HOURS WORKED
Monday	Block Operator	Valley	7 a.m. to 3 p.m.
Tuesday	Block Operator	Brook	7 a.m. to 3 p.m.
Wednesday	Block Operator	Brook	7 a.m. to 3 p.m.
Thursday	Block Operator	Brook	7 a.m. to 3 p.m.
Friday	Block Operator	Brook	7 a.m. to 3 p.m.
Saturday	Train Director	Harold	7 a.m. to 3 p.m.
Sunday	Train Director	Harold	7 a.m. to 3 p.m.

Thus at 3 p.m., Friday, December 24, 1965, he had worked 40 hours, (5 days) in his work week. For service performed on Saturday, which was

Under the terms of the controlling agreement the claim was discussed in conference with the Director of Personnel and the General Chairman. The claim was denied by the Director of Personnel on April 22, 1966. A copy of this denial is attached hereto and made a part hereof, marked "Carrier's Exhibit D."

The claim was again listed for discussion with the Director of Personnel on July 28, 1966, and on August 16, 1966, the Director of Personnel reiterated his position as in letter of April 22, 1966. Copies of these letters are attached hereto and made a part hereof, marked "Carrier's Exhibit E" and "Carrier's Exhibit F."

(Exhibits Not Reproduced)

OPINION OF BOARD: At the time this claim arose, Claimant held status of an extra (unassigned) block operator, and under paragraph (j) of Rule 56, his work week began on Monday, December 20, 1965. During that week he worked seven successive days, eight hours per day, Monday through Sunday, including Christmas Day, Saturday, December 25, 1965, one of the recognized Agreement holidays.

For service performed on Saturday Claimant was paid at the rate of one and one-half times the straight time rate of the position worked.

Claimant seeks payment of an additional amount of eight hours at time and one-half rate for Saturday, December 25, 1965, contending that although he was properly paid for working on a rest day, pursuant to Rule 30, he was improperly denied additional 8 hours' payment for working on an agreed upon holiday as required by Rule 34.

Carrier denies violation, citing Rule 30, Paragraph (d) of the schedule Agreement:

"(d) There shall be no overtime on overtime, neither shall overtime hours paid for, other than hours not in excess of eight paid for at overtime rate on holidays, or for changing shifts, be utilized in computing the forty (40) hours per week, nor shall time paid for in the nature of arbitraries or special allowances such as attending court, deadheading, travel time, etc., be utilized for this purpose, except when such payments apply during assigned working hours in lieu of pay for such hours, or where such time is not included under existing rules in computations leading to overtime."

We find that Carrier's reliance on Rule 30(d) is mistaken. The subject situation does not involve a claim for overtime on overtime. We are dealing here with separate benefits, one for overtime work on a sixth day of work, the other payment for work done on one of the designated holidays. Both benefits are applicable hereto, notwithstanding the fortuity that both conditions coincided on the same day. Awards 10541, 12471, 16605, 16801, 16982, 17087.

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 1st day of August 1969.