Award Number 17528
Docket Number TE-16846
NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:
TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
TENNESSEE CENTRAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Tennessee Central Railway, that:

1. Carrier violated the terms of an Agreement between the parties hereto when it failed to grant Operator-Clerk Mrs. Mila J. Pride a twenty (20) day vacation during the calendar year 1965, or pay her in lieu thereof.

2. Carrier shall, because of the violation set forth above, compensate Mrs. Pride for the difference between the straight time hourly rate of $2.6928 and the time and one-half hourly rate of $4.0392, for service performed on November 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25 and 26, 1965, the last twenty (20) days on which she performed compensated service during the calendar year 1965.

3. Carrier shall, in addition to the above, compensate Mila J. Pride eight (8) hours per day at the straight time rate of $2.6928 per hour on each of the above named dates as a vacation allowance in lieu of vacation not granted.

EMPLOYES' STATEMENT OF FACTS: An Agreement between the Tennessee Central Railway Company, hereinafter referred to as Carrier, and its employees in the classes named therein, hereinafter referred to as Employees, represented by the Transportation-Communication Employees Union (formerly The Order of Railroad Telegraphers), hereinafter referred to as Union, effective May 1, 1924, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

The question at issue here goes to Carrier's failure to grant Operator-Clerk Mila J. Pride a twenty (20) day vacation during the calendar year 1965 or pay in lieu thereof.

Mrs. Mila J. Pride, hereinafter referred to as claimant, was dismissed from Carrier's service effective February 7, 1964. Claim was initiated in her behalf on the ground that:

"1. The Carrier violated the Agreement between the Tennessee Central Railway Company (Carrier) and The Order of Railroad Telegraphers, Division 64 (Organization), when the Carrier by letter dated

in my opinion through vagueness and its flagrant disregard of both the obligations and the legal limitations of the Board, will be of much help.

As information, I do not expect to be in the office next week but should be available after that.

Yours very truly,

/s/ R. E. CARRIER
Director of Personnel."

Carrier and Employees have subsequently conferred on the subject a number of times in an effort to dispose of the monetary claim involved in Award No. 13683 but no settlement thereof has been reached and claimant has received no compensation as a result of said Award.

On February 16, 1966 claim was presented alleging in Part 1 thereof that Carrier violated the governing agreement, "* * when it failed to assign, relieve or otherwise provide a 20-day vacation for Operator-Clerk Mila J. Pride during the calendar year 1965, or to pay her in lieu of same," and claiming in Parts 2 and 3 thereof compensation essentially as set forth in the corresponding parts of the claim here before your Board. Said claim was declined at all stages of handling on the property as is reflected in correspondence relating thereto appended to this submission marked Carrier's Exhibits Nos. 1 to 5, inclusive.

Copies of the parties' agreements are on file with and available to your Board and are made a part hereof by reference.

(Exhibits not reproduced)

OPINION OF BOARD: This claim presents the same basic issue as that discussed in our Award 17527 and, so far as application of the Vacation Agreement is concerned, what we said there applies equally here.

However, the compensatory portion of the claim, parts 2 and 3, allege improper payment for specific dates between November 1 and 26, 1965, but was not filed until February 16, 1966. This was more than the sixty days provided by Article V, Section 1(a) of the August 21, 1954 Agreement, for the filing of claims. This portion of the claim is, therefore, barred, rendering any other aspect of the dispute academic.

Accordingly, the claim will be dismissed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of October 1969.

Central Publishing Co., Indianapolis, Ind. 46206 Printed in U.S.A.