



Award Number 17687

Docket Number TE-17186

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David L. Kabaker, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

CENTRAL OF GEORGIA RAILWAY COMPANY

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

1. Carrier violated the Agreement between the parties when on October 22, 1965 H. L. Watkins was required to work on his rest day, which was also his birthday, and refused to compensate him for his birthday holiday pay or penalty overtime for working on his rest day.
2. Carrier shall compensate H. L. Watkins for 8 hours at time and one-half as a result of the violation cited in 1, above.

EMPLOYEES' STATEMENT OF FACTS: An Agreement between the Central of Georgia Railway Company and this Union, effective October 31, 1959, as amended and supplemented, is available to your Board and by this reference is made a part thereof.

This claim was presented and progressed in accordance with the time limits provided by the Agreement up to and including appeal and conference with the highest officer designated by the Carrier to receive appeals. Having failed to reach a settlement, the Employees now appeal to your Honorable Board for adjudication.

Exact copies of the correspondence exchanged between the parties during the handling on the property is attached to this submission as TCU Exhibits 1 through 12.

Operator-Leverman H. L. Watkins was assigned to work five days per week on a seven-day position at East Point Tower, East Point, Georgia. On October 22, 1965, a rest day of his assignment, which, coincidentally, was his birthday, he was required to work the regular hours of his assignment.

He claimed 8 hours at time and one-half for working on his rest day and 8 hours at time and one-half for having worked on his birthday, which was also a rest day of his position. Carrier reduced this to 8 hours at time and one-half and 8 hours pro rata, TCU Exhibits 1 and 2.

As District Chairman of this Organization he then filed claim with Superintendent J. B. Hilton for an additional 8 hours at time and one-half. The Superintendent declined the claim, TCU Exhibits 3 and 4. Throughout the handling on the property, Carrier took the position that, having paid claimant Watkins 8 hours at the pro rata rate of his position for his birth-

respectfully declined in its entirety as stated in my letter of August 30, 1966."

Under date of January 13, 1967, the General Chairman wrote Carrier's Director of Personnel rejecting that officer's decision:

"Reference your letter of August 30, 1966, file TE 80202 in connection with claim filed in behalf of Operator-Leverman H. L. Watkins, East Point, Tower for 8 hours pay at time and one half account Carrier's refusing to compensate him for working his rest day which was also his birthday holiday, and your letter of November 18, 1966 same file number, acknowledging conference held in Mr. J. L. Ferrell's office on November 9, 1966.

For many years employees have been compensated at the rate of time and one half for performing work on their rest days under Rule 6, Section M(1) of the agreement of October 31, 1959, the contents of which are very familiar to you.

Article 3, Section 6,(a) of the Mediation Agreement of April 16, 1965, is clear and to the point and needs no further comment; however, there are many awards holding that payment under one rule does not satisfy another rule.

This is to advise that your decision is not in keeping with the proper application of the rules, or historical practice, and that your decision is rejected. A further appeal will be made."

The next communication of record is letter of May 26, 1967, from President Leighty of the Organization to Executive Secretary Schulty of the Third Division, N.R.A.B., filing notice of intent to progress the claim to the Board.

The Agreement.

The rules and working conditions agreement is effective October 31, 1959, as amended. A copy of the basic agreement and all amendments are on file with your Board, and, by reference, made part and parcel of this submission as though reproduced herein word for word.

OPINION OF BOARD: Claimant was required to work on October 22, 1965, which was one of his assigned rest days and also his birthday. He was paid eight hours at the pro rata rate for his birthday holiday and eight hours at the time and one-half for working. He claims an additional eight hours pay at the time and one-half rate.

The issues involved in this dispute are the same as those involved in numerous awards of this Board, such as Awards 15398, 15440, 15764, 15875, 15892, 16101, 16153, 16291, 16643, 16845, 16855, 16857, 17050, 17471, 17546 and 17547, which sustained the claims. Accordingly, this claim will be sustained.

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 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 January 1970.