

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19235
Docket Number CL-19400

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Portland Terminal Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7003)
that:

1. The Carrier violated the provisions of the Birthday Holiday Agreement, Rule 40 and other rules of the Rules Agreement on August 13, 1970 when it ordered claimant Jack Bulletset, incumbent of Job 770, AAR Clerk to stay home on his birthday, August 13, 1970 and ordered Mary Bozic to perform various duties of Job 770.

2. The Carrier now be required to pay Jack Bulletset at the punitive rate of his daily rate of pay, \$27.3874, as adjusted by subsequent wage increases made pursuant to Public Law 91-541 for August 13, 1970.

OPINION OF BOARD: While the record contains assertions and contentions advanced by both parties, the Petitioner has failed to produce evidence that Steno-Clerk Mary Bozic did in fact suspend duties of her position to perform the duties assigned to AAR Clerk, Claimant Bulletset, when his position was blanked and he was given the day off on his birthday holiday, August 13, 1970.

The burden of proof not having been met we will dismiss the claim.

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 Employee involved in this dispute are respectively Carrier and Employee 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;

That the claim must be dismissed for failure of proof.

Award Number 19235
Docket Number CL-19400

Page 2

A W A R D

Claim dismissed.

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By Order of Third Division

ATTEST: *E. A. Killen*
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1972.