

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21413
Docket Number CL-21125

James C. McBrearty, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(Robert W. Blanchette, Richard C. Bond, and John H.
(McArthur, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7786) that:

L. A. Sorrell claiming one day's pay for Christmas Day, December 25, 1971, W. A. Shorts claiming a day's pay for December 25, 1971 and January 1, 1972, J. J. McNabb claiming a day's pay for December 25, 1971 and January 1, 1972. (Docket 2808)

OPINION OF BOARD: In order to make a lawful award on the merits of this dispute, the Board must find that it has jurisdiction over the parties and the subject matter of this dispute (See A. B. Phillips v. Fidalgo Island Packing Company., 230 F. 2d 638, 640 (9th Cir. 1955); rehearing denied 238 F. 2d 234 (9th Cir. 1956); certiorari denied 352 U.S. 944 (1956)).

This Board has been granted jurisdiction by Section 3, First (i) of the Railway Labor Act, over "disputes between an employe or group of employes and a Carrier or Carriers." The Act defines the term "employe" in Section 1 Fifth, as including "every person in the service of a Carrier ... who performs any work defined as that of an employe or subordinate official in the orders of the Interstate Commerce Commission." The Railway Labor Act defines the term "carrier" in Section 1, First, as including "any express company, sleeping car company, Carrier by railroad, subject to the Interstate Commerce Act." Therefore, it should be clear that the Railway Labor Act explicitly limits and parallels its coverage, with respect to both carriers and employes, to the coverage of the Interstate Commerce Act.

Sections 1 (1) (a) and 1(2) of the Interstate Commerce Act limit its application to common carriers and transportation, "only insofar as such transportation or transmission takes place within the United States." Consequently, the application of the Railway Labor Act must also be limited to activities which take place within the United States.

The clear and unambiguous language of the Railway Labor Act limiting its scope and coverage to labor relations within the United States has been sustained both by this Board (see Third Division Award 18694; First Division Awards 14082, 11151, 11150, 11149, and 915), and the Federal courts (see

Air Line Dispatchers Assn. v. National Mediation Board, 189 F. 2d 685, cert. denied, 342 U.S. 849 (1951); Air Line Stewards and Stewardesses Assn. v. Northwest Airlines, Inc., 162 F. Supp. 684, 267 F. 2d 170, cert. denied, 361 U.S. 901 (1959); Air Line Stewards and Stewardesses Assn. v. Trans World Airlines, 173 F. Supp. 369, 273 F. 2d 69, cert. denied, 362 U.S. 988 (1959)).

On the basis of the foregoing authorities, this Board finds that, with respect to operations within the Dominion of Canada, the Carrier and Employes involved in this dispute are not Carrier and Employes within the meaning of the Railway Labor Act. Therefore, this Board being without jurisdiction to decide this dispute on its merits, the claim must be dismissed.

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 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 Carrier and the Employes involved in this dispute are not respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February 1977.

