

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21801
Docket Number CL-21606

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(R. C. Haldeman, Trustee of the Property
(of Lehigh Valley Railroad Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8080, that:

(a) Carrier violated the Scope, Rule 1 of the May 1, 1955 Rules Agreement between the parties and Rules of the National Vacation Agreements in refusing to allow R. A. Bittenbender two (2) weeks vacation pay in 1975 based upon his service during the calendar year, 1974.

(b) Carrier be required to compensate Mr. Bittenbender for two (2) weeks vacation at the rate of his former Programmer position.

OPINION OF BOARD: In a letter dated September 27, 1974, Claimant tendered his resignation from the Carrier and asked that his 1975 vacation, based upon his 1974 service, be allowed. His request for vacation pay was denied on the theory that payment in lieu of vacation was not warranted because Claimant was assigned to a "P" position.

The identical question was decided in our Award 14360 involving the same parties where it was held:

"Although Mr. Harvey's 'P' position was partially excepted from the working rules of the Agreement, his position was covered by Rule 1, the Scope of the Agreement. Thus, the Brotherhood represented him along with all members subject to the Scope of the Agreement when it negotiated amendments to the National Vacation Agreement in August, 1960. Moreover, since these amendments did not designate any exceptions, this National Vacation Rule applies to partially-excepted employe, Mr. Harvey, and he is entitled to vacation pay for 1961 for services he had rendered during 1960 and prior years."

See, also, Award 21509 involving these same parties.

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

The agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1977.