

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22430  
Docket Number CL-22408

Joseph A. Sickles, Referee

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employes

PARTIES TO DISPUTE:

(  
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-8546) that:

(1) The Carrier violated the current Clerks' Agreement at Fort Worth, Texas, when on Legal Holiday, Washington's Birthday, February 21, 1977, it failed and refused to permit Mr. C. L. Brannon to work his regular assignment, which was a regular work day and a holiday.

(2) Carrier shall now be required to compensate Mr. C. L. Brannon eight (8) hours' pay at the time and one-half rate of his regular assignment, Switching Clerk Position No. 4399, for February 21, 1977, in addition to any compensation already received for that date.

OPINION OF BOARD: Claimant was regularly assigned to Position 4399, 8:00 a.m. to 5:00 p.m., Mondays through Fridays. On February 21, 1977 (Washington's Birthday), Carrier "blanked" the assignment. However, the Claimant insists that another clerk performed work which otherwise would have been performed by him.

Rule 45(e) states that when work is to be performed on a day which is not part of any assignment, the regular employe shall be utilized (with certain exceptions not here applicable). Thus, reasons the Claimant, he - and he alone - had the right to perform the work on the holiday.

The record supports the Employe's contention that the other clerk did perform the work in question, but the Carrier states that even if that is the case, said individual normally performs identical work on weekends, and a certain Addendum No. 10 permits that activity.

We are of the view that Rule 45 applies - not Addendum 10 - and that under these circumstances, the regular employe, i.e., Claimant, was entitled to the work, notwithstanding the fact that the other clerk may have performed the same function on Claimant's rest days. In this regard, our Award 20187 controls.

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 agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of June 1979.