

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22587
Docket Number CL-22677

John J. Mangan, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employes
(
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8643) that:

1. The Carrier violated the effective Clerks' Agreement when it failed to properly compensate Clerk S. Godun for sick leave benefits on September 13 and 14, 1977;

2. The Carrier shall now compensate Clerk S. Godun for the difference between the amount paid him and the daily rate of his position, i.e., \$25.00 per day for each of dates September 13 and 14, 1977.

OPINION OF BOARD: The facts in this case are not in dispute. Under Rule 62½ employees, such as Claimant herein, are to be paid a defined number of "work days" as sick leave allowances when off account sickness. The sick leave allowances are paid for "work days" only and are offset by any sickness benefits received from the Railroad Unemployment Insurance Act for that same "day."

R.U.I.A. benefits are not payable on the first four (4) consecutive days of what is called a fourteen (14) day benefit period but are then payable for each day of sickness in the benefit period without regard to "work days" or "rest days."

Carrier seeks to use R.U.I.A. benefits paid Claimant on his "rest days" as an offset to benefits due Claimant on his "work days" under Rule 62½.

The single issue regarding use of R.U.I.A. benefits for "rest days" as an offset against sickness benefits for "work days" has been decided at least three (3) times in the past year and one-half.

The first Award resolving an identical dispute, Third Division Award 21953, was authored by Dr. George S. Roukis, Referee, on March 15, 1978. Public Law Board 1156, Award 22, Referee John B. Criswell decided an identical case on May 24, 1978. Referee Robert M. O'Brien, Award 34 of the Burlington Northern Special Board of Adjustment decided an identical case on May 30, 1978. The above cited Awards are not palpably erroneous and we agree with them. There are no contrary Awards cited. The rule of stare decisis must prevail.

The claim is sustained as presented.

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 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

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 October 1979.