

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23884  
Docket Number MW-23385

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees  
{ Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when E. A. Perez was not properly compensated for holiday pay for December 24, 1978 (Christmas Eve) and December 25, 1978 (Christmas Day) (Carrier's File 190-MofW).

(2) Because of the aforesaid violation, E. A. Perez shall be allowed twelve (12) hours and forty (40) minutes of pay at the Assistant Foreman's straight time rate."

OPINION OF BOARD: The Claimant, an Assistant Section Foreman, relieved the regular Foreman when he was on vacation from December 18 through December 31, 1978. However, Carrier did not allow him holiday pay for Christmas Eve and Christmas Day.

The Claimant asserts that he is an "hourly rated" employee and as such he should have received sixteen (16) hours of holiday pay whereas the Carrier contends that the Claimant functioned as a "monthly rated" employee and that he was compensated properly because the salary structure contemplates holidays.

The Employees have cited, among others, Award 19756 which held that a temporary assignment of hourly rated employees to monthly rated jobs, by Carrier for its convenience, "... does not change the status of hourly rated employees to monthly employees".

The Carrier has also cited Awards which have reached a contrary conclusion. See for example Award 124 of Public Law Board 1366 and Fourth Division Award 3713.

The Employees' contention seems to argue the equity of the situation. Yet Rule 33 clearly points out the method of pay computation to be used. It may be that the results are harsh, but it is not our function to rewrite agreements to ease their application to a particular set of facts.

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

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of May, 1982.

