

THIRD DIVISION

Ida Klaus, Referee

PARTIES TO DISPUTE: { Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
{ Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9486) that:

(a) The Carrier violated the General Agreement and Article IX of the National Agreement when it failed to allow Mrs. Lillian Purvis to observe her personal leave day.

(b) That she now be compensated 8 hours at the pro rata rate of \$65.25 for June 21, 1979.

OPINION OF BOARD: The Claimant, a cut-off clerk working on an "as-needed" basis, complains that her request for a personal leave day for June 21, 1979, was denied in violation of Article IX of the National Agreement of January 13, 1979.

Article IX permits additional sick leave days granted by the Agreement to be taken as personal leave upon 48 hours' advance notice, when "consistent with the requirements of the Carrier's service".

On June 18, 1979, the Claimant submitted a request to treat a day of sick leave as personal leave to be taken on June 21. At the same time, she also submitted a notice of resignation from service effective at the close of the requested personal leave day. Her resignation became effective on June 22, 1979. On June 21, she did not stand for an assignment from her unassigned "as-needed" status. Approval of the leave was denied on the ground that, under the circumstances, she was not entitled to the benefit sought.

It is the Organization's contention that the Claimant had met the various contractual conditions for entitlement to the personal leave day sought and she should accordingly have been paid as requested.

From our review of the facts presented and after considering the arguments advanced by the respective parties, it is the Board's conclusion that the claim cannot be sustained.

A reasonable reading of Article IX reflects the intention to permit personal leave to be taken for the purpose and in the circumstances for which that benefit is ordinarily afforded to employees. Personal leave is granted as an accommodation to an employee's compelling need to attend to personal business of a kind which cannot be performed at a time other than during the employee's duty hours. The time off is given with the expectation that the employee thereafter will resume his work status.

In the instant situation the evidence is clear that the day claimed as personal leave was not used, or meant to be used, for its intended contractual purpose. The Claimant's conduct looked toward a termination of her employment status, rather than a return to it, following the day sought as personal leave. In fact, it is apparent from the timing of her resignation for the day after the leave sought, a step she had earlier indicated she was planning to take that the complainant was attempting to secure consideration and compensation not contemplated by the framers of Article IX. We cannot find in the language of Article IX of the January 13, 1979, Agreement support for the claim here asserted.

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

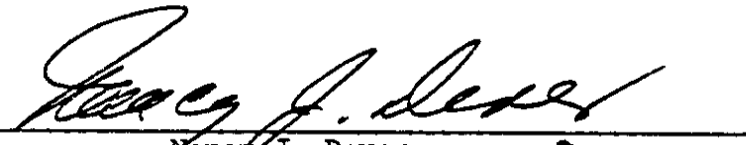
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1983.

