

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24661
Docket Number CL-23984

Josef P. Sirefman, Referee

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

PARTIES TO DISPUTE:

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(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9436) that:

1. Carrier violated the effective Clerks' Agreement when, on January 4, 1980, it failed to compensate Clerk Henry Grzesiak at the time and one-half rate for work performed on the sixth day of his workweek;

2. Carrier shall now compensate Mr. Grzesiak an additional four (4) hours' pay at the pro rata rate of Position GT-194 for January 4, 1980.

OPINION OF BOARD: Claimant Henry Grzesiak, is an extra board clerk regularly assigned to a position at South Chicago, Illinois. Under the extra board agreement Claimant is entitled to a guarantee of pay for forty hours a week, with a Saturday to Friday workweek, and no requirement that his rest days be consecutive. Claimant worked eight hours on Saturday, December 29, 1979; eight hours on Sunday, December 30th; eight hours on Monday, December 31st; was off on Tuesday, January 1st and received holiday pay for that day; was off on Wednesday, January 2nd; worked eight hours on Thursday, January 3rd; and worked eight hours on Friday, January 4th. The Organization contends that for purposes of calculating a forty hour week to determine if overtime is appropriate, the Carrier should have included the eight hours of holiday pay for January 1st. According to the Organization the forty hours had been reached at the end of work on January 4th and Claimant's eight hours worked on January 4th should have been paid at time and a half. The Carrier compensated Claimant for that day at straight time for eight hours.

A review of the entire record including the Rules and the extra board agreement makes it clear that in calculating hours worked in a workweek for overtime eligibility the Parties, by frequently employing the terms "work", "working", and/or "training", did not intend to count eight hours holiday pay (i.e., not working nor training) towards the forty hour limit. Webster's New Collegiate Dictionary's primary definitions of "work" are "activity in which one exerts strength or faculties to do or perform something", and "sustained physical or mental effort to overcome obstacles and achieve an objective or result".

The repetition of the terms "work" and "training" in the governing documents reinforces the Parties' intent in the context of this claim, namely, for a punitive rate of pay, in comparison with some other incident of the employment relationship as was the case in Third Division Award 15442. It is consonant with Public Law Board No. 2227, Award 24, which involved a claim that a paid holiday constituted a day to be included in eligibility for overtime. The Board held that it "simply could not construe 'worked' to include a day on which an employee did not actually work". Therefore, this Board concludes that the Carrier did not violate the agreement when it paid Claimant straight time for work performed on January 4, 1980.

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 Employe 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. Dover - Executive Secretary

Dated at Chicago, Illinois this 30th day of January, 1984

