

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24978
Docket Number SG-24652

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Western Lines):

On behalf of Signal Maintainer J. E. Monger, who was not assigned the vacation dates he requested for 1981, for an additional eight hours at the time and one-half rate for all days of vacation taken to date (April 11, 1981) or be given five vacation days to replace the vacation days assigned. [Carrier file: SIG 181-37]

OPINION OF BOARD: Claimant, Signal Maintainer J. E. Monger, was not assigned his first choice of vacation dates for 1981, the Carrier rejecting the request because it was not consistent with Item 3 of the October 20, 1980 vacation notice that "Vacations are to commence on the first day following second rest day...." The Organization contends that the Carrier's action was in violation of Article 4(a) of the National Vacation Agreement dated December 17, 1941.

In the opinion of this Board the critical issue here is that Carrier asserted on the property that it was following the prevailing practice with respect to scheduling vacations, and that this position was never effectively challenged by the Organization. Accordingly, Carrier's assertion remained uncontroverted, and the Organization did not sustain its burden of proof.

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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 12th day of September 1984.

