

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

(Brotherhood of Maintenance of Way Employes
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

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

(1) The Carrier violated the Agreement when it failed and refused to allow Mr. T. A. Hollobaugh holiday pay for the 1984 Thanksgiving Holidays (November 22 and 23, 1984) (System Docket CR-1387).

(2) The claimant shall be allowed sixteen (16) hours of pay at his straight time rate because of the violation referred to in Part (1) hereof."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The issue at bar is holiday pay. Claimant worked at Cherry Tree until November 21, 1984, and then was on vacation from November 26 until November 30, 1984. Claimant's gang was abolished on November 30, 1984. Claimant returned from vacation on December 3, 1984, and found that his gang was abolished. On the following day he exercised his rights at Reynoldsville.

The Organization representative argues that the signature requirement of Circular No. 1 has not been met. The Board finds that under Circular No. 1 the submission "must be signed by the parties" and that it meets the requirements therein having a typed signature of the party to the dispute (Third Division Award 23170).

On merits, the Organization argues that Claimant reported to his last assigned headquarters at Cherry Tree and therefore qualified for holiday pay under Rule 14(ii) as he was "available" for service. It further asserts that Claimant was not notified of the abolishment and could therefore not make an immediate displacement as the nearest remaining gang was at Reynoldsville.

The Carrier argues that it complied with the Rules of the Agreement. The Claimant was on vacation when the gang was notified of the abolishment. Rule 6 was fully complied with and it makes no provisions for the instant circumstance. Under Rule 14, Claimant was required to work the day preceding and following the holiday to be paid for the holiday. The first work day following the holiday was December 3, 1984. Claimant did not make a displacement and work on that day. Carrier argues that Claimant failed to qualify for holiday pay.

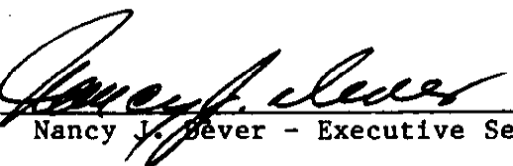
A careful review of the record forces this Board to find for the Carrier. New arguments raised in Ex Parte Submission by the Organization are not considered. The Board cannot create an interpretation by its Award which creates outcomes not stated in the language of the Agreement. Rule 6 was complied with, as was Rule 14. We find no violation of the Agreement as written and therefore must deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Sever - Executive Secretary

Dated at Chicago, Illinois, this 16th day of December 1988.