

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

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 Trackman A. Hernandez holiday pay for Memorial Day (May 28, 1984) (System File NEC-BMWE-SD-1034).

(2) Because of the aforesaid violation, Trackman A. Hernandez shall be allowed eight (8) hours of pay at his straight time rate."

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.

Claimant established and holds seniority as a Trackman in the Track Department at Carrier's Philadelphia subdivision. He was assigned to work Monday through Friday with Saturday and Sunday designated as rest days.

Claimant worked his regular assignment on Friday, May 25, 1984. Saturday, May 26 and Sunday, May 27, 1984, were his rest days. Monday, May 28, 1984, was the Memorial Day holiday and Claimant was not required to work on that day. When Claimant reported to work on Tuesday, May 29, he was displaced from his position by a senior employee.

According to the Organization, there were no junior employees whom Claimant could displace on that date. Moreover, the Organization contends that Claimant requested the opportunity to fill any existing vacancies or extra positions on May 29 but was advised that no such positions were available. On Wednesday, May 30, 1984, Claimant identified a junior employee whom he could displace, and he made that displacement effective at starting time on Thursday, May 31, 1984. The instant claim is for holiday pay for Memorial Day, May 28, 1984.

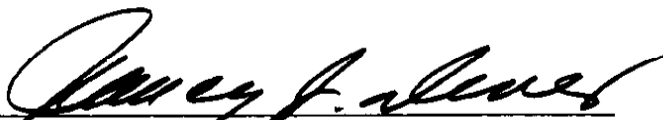
We have reviewed the facts and arguments in the parties' submissions to this Board. This claim arises under the same circumstances as fully set forth in Third Division Award 28232. The only difference from that Award is that the dates involved herein are slightly different. The principle involved is the same, however. We believe that the reasons set forth in the aforementioned Award are equally applicable to the claim herein, and, therefore, this claim is sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1990.