

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 28499
Docket No. CL-28181
90-3-87-3-717

The Third Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10208) that:

(a) Carrier violated the provisions of the current Clerks' Agreement when it failed or refused to properly compensate Mr. M. E. Rogers for holiday of September 1, 1986, and

(b) Mr. M. E. Rogers shall now be compensated eight (8) hours' pay at the pro rata rate of Car Clerk Position No. 9307 for September 1, 1986, in addition to any other compensation Claimant may have received for this day."

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.

In three recent Awards of this Division, the Board held that an employee was not entitled to receive benefits, specifically in this instance holiday compensation, while working under another Agreement. (See Third Division Awards 28336, 28439, 28440.) In this dispute, the Claim involves the same adjudicative issue and the same parties and, accordingly, we find no basis for issuing a variant decision. Claimant was carried on the New Mexico Division Station Department seniority roster and was regularly assigned to Relief Car Clerk Position No. 9307. He also holds dispatchers seniority and, in fact, worked under the American Train Dispatchers Agreement on September 1, 1986. Since he worked under the Dispatchers Agreement on September 1, 1986 (holiday), he was not entitled to holiday pay under the Clerks Agreement. His entitlements for that day flowed from the Dispatchers Agreement.

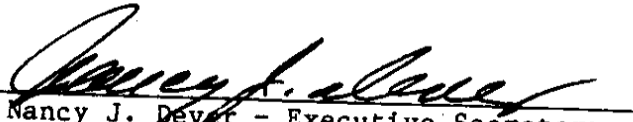
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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1990.