

JAN - 5 1995

Award No. 30616
Docket No. CL-30734
94-3-92-3-535

G. L. HART

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications
(International Union
(
(CSX, Transportation, Inc. (former
(Seaboard Coast Line Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization
(GL-10840) that:

1. Carrier violated the Agreement when it did not allow Clerk C. T. Ross a paid sick day.
2. Because of the above violation, Carrier shall now be required to pay Clerk C. T. Ross (159192) a sick 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 employee or employees involved in this dispute are respectively carrier and employee 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.

On April 17, 1991, Claimant called his supervisor and requested to be off work because he was sick. The next day he presented a time slip seeking payment under Rule 49 for the day. On April 22, 1991, Claimant's Supervisor, the Manager of the Customer Service operation advised him that sick pay was not being allowed for April 17, 1991, because that was the day that the Carmen's Organization was engaged in a National Strike.

Before this Board, Carrier defends its actions on the basis that because the Clerks' Organization "was observing or honoring the Carmen strike, no compensated service would have been performed if Claimant had not been ill." Further, citing Third Division Award 18715, Carrier states that, "there is no indication or reason to believe that if Claimant had not been ill, that he would have voluntarily crossed the picket line and worked."

In response, the Organization states that there were no Carmen picketing in the area of Claimant's office and that Claimant's co-workers reported for work and were paid on April 17, 1991.

The key to this matter is whether the Carmen had a picket line in place at the time Claimant was scheduled to report for work, but did not do so because he was ill. The final denial of Carrier's Senior Director of Employee Relations noted:

"It is reasonable to suspect being a union member, he would not have crossed the picket line and therefore would not have been compensated."

It has not been established in this record that a picket line was in place. Further, it has not been established that Claimant's co-workers did not work on that date. Accordingly, the claim has merit.

AWARD

Claim sustained.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of December 1994.