

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31066
Docket No. SG-31273
95-3-93-3-30

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(CSX Transportation, Inc. (former Seaboard
(Coastline Railroad Company)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (former Seaboard Coast Line):

Claim on behalf of J.E. Deal for payment of 20 hours at his straight time rate account Carrier violated the current Signalmen's Agreement, particularly the Personal Leave Agreement, when it did not allow Claimant to take two personal days during 1991. Carrier's File No. 15(92-14). General Chairman's File No. 15(92-14). BRS Case No. 8882-CSX(SCL)."

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.

This case involves a claim for payment of personal leave days which were not taken. The subject of personal leave days is found in Article X of a National Agreement dated January 8, 1982 between the parties. Section 2 of that Article X reads as follows:

"Section 2

(a) Personal leave days provided in Section 1 may be taken upon 48 hours' advance notice from the employee to the proper carrier officer provided, however, such days may be taken only when consistent with the requirements of the carrier's service. It is not intended that this condition prevent an eligible employee from receiving personal leave days except where the request for leave is so late in a calendar year that service requirements prevent the employee's utilization of any personal leave days before the end of that year.

(b) Personal leave days will be paid for at the regular rate of the employee's position or the protected rate, whichever is higher.

(c) The personal leave days provided in Section 1 shall be forfeited if not taken during each calendar year. The carrier shall have the option to fill or not fill the position of an employee who is absent on a personal leave day. If the vacant position is filled, the rules of the agreement applicable thereto will apply. The carrier will have the right to distribute work on a position vacated among other employees covered by the agreement with the organization signatory hereto."

There is no basic disagreement relative to the fact situation in this dispute. The record reflects that the Organization representative had requested and the local management representative had agreed to have a make-up work schedule so as to allow additional time off for the Christmas and New Year's holidays. This understanding included the proviso that employees would not be permitted to take vacation or personal leave days during the make-up period. The make-up period began on December 16, 1991.

Claimant, a Signal Foreman, had been off duty from September 16 until December 15, 1991 serving a disciplinary suspension. When he returned to service on December 16, he requested two personal leave days for December 18 and 19, 1991. His request was denied by Carrier for the reason that "when he returned from his suspension on December 16, 1991, the gangs were working the make-up schedule."

In Award 3 of Public Law Board No. 3273 dealing with a similar subject, we read:

"The extra leave days provided in the Agreement are a valued and attractive benefit. In acting on requests for

such days, a Carrier must make a genuine effort toward accommodation and supply supportable reasons when requests must be denied because of requirements of the service."

In this instance, Carrier's reliance on the understanding previously reached relative to the holiday make-up schedule was a supportable reason for denial of Claimant's request. The language of Article X, Section 2(a) of the National Agreement specifically permits the rejection of requests for personal leave days which are not consistent with the requirements of the Carrier's service. That permissible exception is applicable here.

The Organization has not proven on this record that Carrier's actions were not in accordance with the make-up work schedule understanding reached by the parties or that the denial of the personal leave days was inconsistent with the requirements of the service.

Therefore, on the basis of the circumstances which are present in this case, there is no justification for the payment as requested and it is denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of September 1995.