

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37133
Docket No. CL-38096
04-3-03-3-557

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-13023)
that:

1. Carrier violated the National Vacation Agreement, Rule 11 and other related rules of the Agreement by failing to compensate Claimant Jeston Powell III for his scheduled vacation week of July 19 through and including July 23, 2002.
2. Carrier shall now compensate Claimant forty (40) hours pay for the vacation week which was scheduled and for which Carrier failed to compensate Claimant.
3. Inasmuch as Carrier scheduled the vacation week for Claimant and has never disputed that he qualifies for said vacation, Carrier shall now pay interest on the forty (40) hours vacation pay which it is withholding from Claimant. Interest as herein claimed shall be calculated at four (4) percent per annum, compounded, but shall not be less than \$2.00 per month beginning with the month of September, 2002 until such time as Claimant is paid for the vacation week. (For example, if Claimant's 40 hour vacation week equals \$706.55 and Carrier finally pays him during the month of November, 2002, Carrier shall pay him \$710.55 to include the \$2.00 per month interest claim for the months of September and October, 2002.)”

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 were given due notice of hearing thereon.

The Claimant's vacation was scheduled for July 19 - 23, 2002. The Claimant was furloughed on March 22, 2002. At the time of his scheduled vacation in July, the Claimant was not paid his vacation pay. The Carrier paid the Claimant his vacation pay in December 2002. The only issue presented by the claim is whether the Board should order the Carrier to pay the Claimant interest for the intervening period (amounting to approximately \$6.00).

The clear weight of authority is that a Board will not award interest except under special circumstances, such as an express provision in the Agreement providing for interest or bad faith on the part of the Carrier. See, e.g., Third Division Awards 28178, 24710, 24614, 23918. This is not a case such as Public Law Board No. 4788, Award 3, where the Carrier deducted money from the Claimant's pay check despite the pendency of a claim challenging the Carrier's entitlement to such deductions or Public Law Board No. 4400, Award 14, where the Carrier ordered the Claimant to pay it a large sum of money to which it was not entitled under penalty of discipline if he failed to do so. There are no special circumstances that would warrant an award of interest.

AWARD

Claim denied.

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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 25th day of August 2004.