

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37335
Docket No. SG-37613
05-3-02-3-744

The Third Division consisted of the regular members and in addition Referee Nancy F. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Chesapeake and
(Ohio Railroad Company [Chesapeake District])

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (CSXT):

Claim on behalf of D. A. Chinn, T. R. Blankenship, N. E. McNeeley, S. D. Menix, A. R. Tackett, J. B. Newberry, J. E. Floyd, J. B. Shelton, C. C. Wireman, and D. K. Patterson, for two hours each at their respective straight time rates of pay, account Carrier violated the current Signalmen's Agreement, particularly CSXT Labor Agreement 15-093-98, when it failed to compensate the Claimants for ten hours holiday pay for the Labor Day holiday on September 3, 2001, the Claimants received their paychecks on September 28, 2001, triggering this dispute. Carrier's File No. 15-02-0023. General Chairman's File No. 01-83-CD. BRS File Case No. 12452-C&O.”

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.

In this case, the Organization contends that the Carrier violated Section 5, Paragraph B of CSXT Labor Agreement No. 15-093-98 when it paid the Claimants eight hours straight time for the September 3, 2001 Labor Day holiday, rather than ten hours straight time, which the Organization alleges is required by the Rule.

The record demonstrates that the Claimants were working eight ten-hour days with six consecutive rest days. The Labor Day holiday was celebrated on September 3, 2001, which was one of the Claimants' regularly scheduled rest days. The Organization contends that the Claimants should have been paid ten hours straight time for this particular holiday under the provisions of Section 5, Paragraph B of CSXT Labor Agreement No. 15-093-98. For its part, the Carrier took the position that the intent of the Rule was to pay employees ten hours if the holiday fell on a work day, but only pay eight hours if the holiday fell on a rest day.

Section 5, Paragraph B of CSXT Labor Agreement No. 15-093-98 provides:

"In applying rules on holidays, personal leave, bereavement leave and jury duty to BRS represented employees working ten hours per day under this Agreement; a basic day's pay will be considered ten pro rata hours."

The language of Section 5, Paragraph B is clear and unambiguous, "... In applying rules on holidays ... a basic day's pay will be considered ten pro rata hours." In the circumstances, the word "will" cannot be considered discretionary or optional, and therefore must be applied as written. Moreover, in Case Nos. 38 and 39 of Public Law Board No. 6525 involving essentially identical disputes between these parties Referee M. David Vaughn held on September 30, 2003 that:

"The Agreement clearly states that, for purposes of holidays, the basic day is ten hours. Conversely, the language does not state or imply that SSCGs should receive eight hours holiday pay on rest days, as the Parties have negotiated for other bargaining units.

There is no basis from which to infer a meaning to words whose meaning is otherwise plain."

For the sake of promoting stability and harmonious labor-management relations we concur with that tribunal's interpretation of the issue. The fact that the Claimants' regular rest day coincided with the 2001 Labor Day holiday neither negates nor circumvents the clear language of Section 5, Paragraph B of CSXT Labor Agreement No. 15-093-98. Therefore, we are compelled to sustain this claim.

AWARD

Claim sustained.

ORDER

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 19th day of January 2005.