

PUBLIC LAW BOARD NO. 3765

 * * * * *
 * Consolidated Rail System Federation *
 * Brotherhood of Maintenance of Way *
 * Employees * Case No. 39
 * * * * *
 * vs. *
 * * * * *
 * Grand Trunk Western Railroad Company *
 * * * * *

Parties
to the
Dispute

STATEMENT OF CLAIM

That Claimants Hayes, Smith, Ocenasek and Hutchinson be paid 7.5 hours pay for December 23 and 8 hours pay for December 24 and 25, 1987 at the pro rata rate.

OPINION OF THE BOARD

Claimants were, at the time of the incident that gave rise to this case, employed in a gang working out of Valparaiso, Indiana. On the morning of December 23, 1987, they overslept and arrived 40 minutes late at their reporting point. Their gang had already left for the work site. They were sent home by the Track Supervisor. As a

result of not working on December 23, the named Claimants also lost their holiday pay for Christmas Eve and Christmas Day, December 24 and 25, 1987.

Carrier contends that it is not obligated to allow an employe to work if that employe reports late. It argues that employes on this Carrier are aware of that policy and that the named Claimants were late at their own peril. It cites Second Division Award No. 8045, Irwin M. Lieberman, Referee, to support its position.

This Board has reviewed the facts of this case, as well as the Lieberman Award. We find the fact of the Lieberman Award somewhat different from those of this case. While we have no quarrel with that award, we do not think that it applies here.

In the case before this Board, Claimants lost three days' pay because they were 40 minutes late for work. We find that to be an excessive penalty to extract for such a Rule infraction. This Board cannot condone employes arriving late to work. It is not our role to comment on whether Carrier can hold employes out of service a full day if they do report late. We do, however, think it was an arbitrary decision to refuse to allow Claimants to work, knowing that it would cost them three days of pay each. Based on the record, the Board

concludes that Claimants should be paid for Christmas Eve and Christmas Day, 1987. No pay is authorized for December 23, 1987.

AWARD

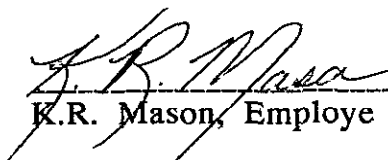
Claimants shall be paid for Christmas Eve and Christmas Day, December 24 and 25, 1987, at the pro rata rate.



R.E. Dennis, Neutral Member



Jo A. DeRoche, Carrier Member



K.R. Mason, Employe Member

February 20, 1991