

PARTIES) INTERNATIONAL ASSOCIATION OF MACHINISTS
TO) AND AEROSPACE WORKERS
DISPUTE) THE ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM

That the Illinois Central Railroad Company (hereinafter referred to as the Carrier) arbitrarily and capriciously refused to pay S. Parham, B. Stanfill, J. Clements, J. Kirkland, J. Pittman, J. Thompson, J. Norton, D. O'Bryant, C. E. Ervin, J. McGowen, W. Goldman and T. Campbell (hereinafter referred to as the Claimants) the skill differential while on vacations and holidays provided for in the National Vacation Agreement as well as the Current Controlling Agreement.

That the Carrier be ordered to pay the skill differential to the Claimants while they are on vacations and holidays.

FINDINGS

This Board upon the whole record and all the evidence, finds that the employees and the carrier involved in this dispute are respectively employees and carrier within the meaning of the Railway Labor Act as amended and that the Board has jurisdiction over the dispute involved herein.

The Claimants herein represent a group of twelve employees, each of whom was on a bulletined job which paid the skill differential for eight (8) hours each workday. This claim was filed in response to the Carrier's refusal to pay the skill differential to the Claimants for vacations and holidays.

The Organization maintains that under Rule 58 of the September 30, 1985, Agreement, the Carrier paid employees eligible for the six cents (\$.06) per hour differential for both holidays and vacations. However, the Organization stresses that after the July 31, 1992, arbitrated Agreement became effective, the Carrier refused to pay the newly established skill differential for holidays and vacations.

The Carrier defends this position, arguing that the language of Rule 58 of the September 30, 1985, Agreement was essentially replaced by the very specific language of Article VII, Section 1, which states:

Section 1 - Journeymen machinists who perform the work listed below shall receive a differential per hour above the minimum rate paid to journeymen machinists at the point employed for each hour actually spent performing the listed work as set forth below:

- (a) Existing differentials paid to journeymen machinists for performing lead mechanic work shall be increased to 50 cents per hour effective January 1, 1993.
- (b) Existing differentials paid to journeymen machinists for performing federal inspector or welding work shall be increased to 25 cents per hour effective January 1, 1993.
- (c) Journeyman machinists who perform the work (as defined in Side Letter #15) of -

Classroom Instructor
EMD Turborecharger Room Work
Traveling Roadway Machinists
Precision Machine Operators
Governor Room Work
Air Room Work
Engine Rebuild
Alignment of -
Main generators/alternators
Air Compressors (mechanical drive)
Auxiliary generators
Fan Drives/Equipment Blowers (mechanical drive)
Gear Trains - Build-up locomotive gear trains

shall receive a differential of 25 cents per hour, effective January 1, 1993. Effective January 1, 1994, this differential shall be increased to 50 cents per hours.

Analysis of the language of Rule 58 of the 1985 Agreement leads this Board to conclude that a precise 6 (\$.06) cent an hour differential was provided for, but did not specifically address the issue involved herein, which essentially is time paid, but not worked. The July 1992 Agreement, however, does, in fact, address that issue in Section 1 of Article VII, quoted above, wherein it requires such payment for specified work "... for each hour actually spent performing the listed work as set forth below." (Emphasis added.)

In conjunction with the premise that the differential is limited to and applies only to time worked, Section 2 of Article VII addresses the issue of performing differential work less than eight (8) hours a day, as follows:

Section 2 - When performing the above work for four (4) hours or less in any one day, employees will be paid the differential on an hourly basis with a minimum of one (1) hour; for more than four (4) hours in any one day, the differential will apply for that day.

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This Board finds the above language of Section 2 is consistent with the premise of Section 1 in that for less than four (4) hours of differential work, the payment is on an hourly basis of time worked and for more than four (4) hours in a given day, the differential applies for that day only. Clearly, Section 2 provides for but one exception to the Section 1 mandate that the differential is paid for each hour such work is performed. Significantly, that single exception limits such payment to the day on which more than four (4) hours of differential work is performed.

This Board has carefully examined the parties' controlling Agreement and, especially, the language covering vacations, holidays, personal leave days, jury duty, and bereavement leave and inescapably finds no basis to conclude the parties intended to incorporate the payment of skill differential into those benefits. The Board's inquiry does, however, disclose the provisions of the 1941 National Vacation Agreement continue in effect. The "Interpretations" section dated June 10, 1942, states:

Article 7

Article 7(a) provides:

An employee having a regular assignment will be paid while on vacation the daily compensation paid by the carrier for such assignment.

This contemplates that an employee having a regular assignment will not be any better or worse off, while on vacation, as to the daily compensation paid by the carrier than if he had remained at work on such assignment, this not to include casual or unassigned overtime or amounts received from others than the employing carrier.

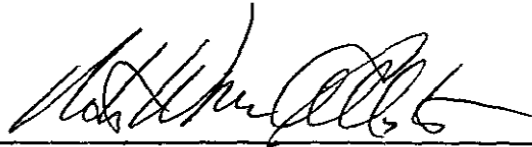
When the above interpretive language is read in conjunction with Article VII, Sections 1 and 2, it is evident the parties did not attempt to modify the impact of this long established clarification. Accordingly, this Board is required to sustain the Organization's claim with respect to vacations on the following basis:

Employees regularly assigned to a position identified by Article VII and Side Letter #15, which normally pays the skill differential for all hours every workday, are entitled to the skill differential as part of their vacation pay. In all other instances, such as holidays, personal leave days, jury duty, and bereavement leave, the skill differential does not apply to time paid, but not worked.

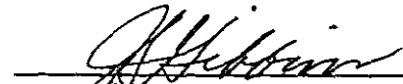
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AWARD

Claim sustained in part and denied in part per the above FINDINGS.



Robert W. McAllister
Chairman and Neutral Member


J. S. Gibbons
Carrier Member
Fredrick D. Nalley
Organization Member

JUNE 7, 1994
Date