

AWARD NO. 1

DOCKET NO. 187

PUBLIC LAW BOARD NO. 566

Pennsylvania Federation Brotherhood of Maintenance of Way Employees

vs.

PENN CENTRAL TRANSPORTATION COMPANY

STATEMENT OF CLAIM: "Claim in behalf of A. Ruggiere, et al. claiming 8 hours Holiday Pay for each for September 5, 1960, as provided for in the August 19, 1960 Agreement."

OPINION OF BOARD:

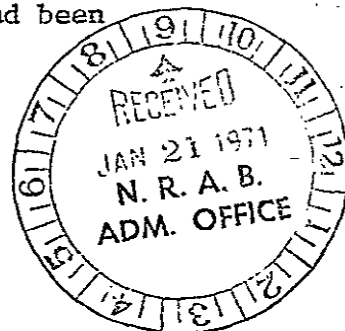
Because of a strike by shop craft employees of the former Pennsylvania Railroad Company commencing on September 1, 1960, Claimants' positions were "temporarily suspended" effective September 1, 1960. The strike terminated on September 12, 1960 and pursuant to agreement between the parties, Claimants were returned to the positions they had occupied immediately prior to the strike.

Claims were submitted by the Organization for 8 hours Holiday pay for Labor Day (September 5, 1960) in accordance with the provisions of Article II of the August 21, 1954 Agreement and Article III of the August 19, 1960 Agreement.

The facts and issues presented in this dispute have been the subject of many awards of the National Railroad Adjustment Board, including awards on this property. These awards have almost uniformly held that since Claimants did not lay off on their own accord, were available for service and satisfied the requirements of Article III, Section 1, Subsection ii of the August 19, 1960 Agreement, the claims should be sustained. See Awards 14730, 14890, 14675, 14635, 14625 and 14515.

The Board can find no reason or basis to deviate from these awards.

Carrier raises the further defense to the effect that "it is an entirely reasonable conclusion that the Claimants, in any event, would not have crossed the picket lines established across the property by the striking Shop Craft employees even if work had been available to them."



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Conjecture and assumption cannot, under any circumstance, be the basis for denying or sustaining a claim. The record fails to disclose evidence of a request by Carrier or a refusal by the Organization to cross picket lines to return to work. Moreover, Carrier gave specific instructions to the employees not to return to work until the strike was terminated.

It is clear from the Agreements that this claim does not include those Claimants who are monthly rated, and such claims are accordingly dismissed.

AWARD: Claim sustained consistent with the Opinion herein. Order date is 30 days from the date of this award.

PUBLIC LAW BOARD NO. 566

/s/ Nicholas H. Zumas

Nicholas H. Zumas, Chairman

/s/ A. J. Cunningham

A. J. Cunningham, Employee Member

/s/ S. J. Wilson

S. J. Wilson, Carrier Member

Signed and dated at Philadelphia, Penna. December 18, 1970