Award No. 25
Docket No. 25

MOP File 380-1474
ORT File 1189

SPECIAL BOARD OF ADJUSTMENT NO. 117

ORDER OF RAILROAD TELEGRAPHERS
and
MISSOURI PACIFIC RAILROAD COMPANY

Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad that:

1. Carrier violated the National Vacation Agreement, Article 5, when it cancelled the assigned vacation of O. M. Carnley, Warren, Arkansas, which was scheduled to begin on July 1st, 1954.

2. Carrier violated the Agreement when on August 31, 1954, it suspended O. M. Carnley from his position of Telegrapher-Cashier for a period of ten working days.

3. Carrier shall be required to pay O. M. Carnley for the difference in the straight time paid him and the time and one-half rate to which he was entitled for his assigned vacation period beginning July 1, 1954.

OPINION OF BOARD: This claim concerns an alleged violation of Article 10(e) of the basic agreement and Article 5 of the National Vacation Agreement when, it is contended, the claimant was not able to enjoy his assigned 10-day vacation period on July 1, 1954, but was suspended from his position for a 10-day period commencing August 31, 1954. It is asserted that the claimant's vacation period was properly established within the meaning of Article 4 of the National Vacation Agreement and that the respondent did not give claimant the 10-day notice of a deferred vacation as required by Article 5 of the National Agreement, but was, in truth and in fact, only given a 4-day notice and was thus improperly suspended from his regular assignment within the meaning of Rule 10(e) of the basic agreement.

The Organization asserted that once a vacation period was assigned, no further action on the part of an employe was necessary, but that the respondent had duty to notify some employe to cover claimant's position during his assigned vacation period, particularly where, as here, no contention is made that vacation relief for claimant's position was not available. Petitioners cite Awards 6630 and 6658 of the Third Division, National Railroad Adjustment Board, as controlling.

The respondent takes the position that neither the effective agreement nor the National Vacation Agreement was violated in the instant case. It was pointed out that claimant was assigned a vacation of ten days commencing on July 1, 1954, and notified of same on Carrier's Form 545, which contained the following regulation:

"In advance of starting your vacation, consult your Supervisor so that *arrangements may be made to handle the work in your absence.*"

The respondent further pointed out that the claimant was personally notified on July 7 and August 19, 1954, that his vacation was past due according to the vacation schedule and requested him (the claimant) to contact the Division Trainmaster to arrange a new vacation date in accordance with the vacation agreement, but that no reply was received from said claimant.

The respondent asserted that, in assigning claimant a vacation period commencing August 31, 1954, when competent vacation relief was available, it was making effective both the provisions and intent of the National Vacation Agreement that all employes were to be given a vacation at some period during each calendar year.

Claimant here was assigned a vacation period. The period to which he was assigned was presumably established in accordance with both the letter and intent of the Vacation Agreement. There is no rule of either the basic agreement or the National Vacation Agreement which requires respondent here to notify an employe that his vacation period is approaching or is immediately at hand. The requirement or regulation of the Carrier which was contained on its Form 545 and which is quoted hereinabove, was neither arbitrary nor an unreasonable burden for the claimant to assume in connection with starting his vacation period. Even though, for the sake of argument, it were contended that the Carrier here might well have, in the interest of better relations, notified claimant of his approaching vacation, it cannot be said, in this case, that the claimant used good judgment for the reason he failed and refused to answer the respondent's letters concerning his then overdue vacation and request that a new vacation period be designated through conference with the Division Trainmaster. The requirement contained in Carrier's Form 545 cannot be found other than permissible and proper as a means of implementing the taking of vacations.

This claim has no merit.

FINDINGS: The Special Board of Adjustment No. 117, upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act as approved June 21, 1934.

That this Special Board of Adjustment has jurisdiction over the dispute involved herein; and,

That the Carrier did not violate the effective agreement.

AWARD

Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 117

Livingston Smith - Chairman

C. O. Griffith - Employe Member

G. W. Johnson - Carrier Member

St. Louis, Missouri
July 17, 1956