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AWARD NO. 17
CASE NO. 17

SPECIAL BOARD OF ADJUSTMENT NO. 174

PARTIES The Brotherhood of Railway and Steamship Clerks,
Freight Handlers, Express and Station Employees
TO

DISPUTE The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) Carrier violated the provisions of the Vacation Agreement and the Agreement of August 21, 1954, when it fails and refuses to accord J. A. Knolls five (5) days vacation in the year 1955; and,

(b) J. A. Knolls shall now be accorded five (5) days vacation with pay, or payment in lieu thereof, for the year 1955.

FINDINGS: Special Board of Adjustment No. 174, upon the whole record and all the evidence, finds and holds:

The Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as amended.

This Special Board of Adjustment has jurisdiction over this dispute.

Effective with the calendar year 1945 the Carrier had, of its own volition and without notice to, or any agreement or understanding of any kind with, either its employees or their duly accredited representatives, adopted an interim or temporary vacation policy, as a gratuity to its employee veterans of World War II, whereby those of the Carrier's employees who returned from military service and re-entered the active service of the Carrier too late in a calendar year to qualify for a vacation in the following calendar year were granted a vacation with pay in such following calendar year the same as if they had performed the necessary qualifying service in the preceding calendar year, provided they remained in the active service of the Carrier until the end of the calendar year in which they returned from military service.

This vacation policy was later extended, also without notice to, and without agreement or understanding with the Carrier's employees or their duly accredited representatives, those of the Carrier's employee veterans who returned to the Carrier's service during and following the so-called Korean conflict.

Claimant entered the Carrier's service June 18, 1951. He entered the military service December 22, 1952 and served until June 23, 1954. He returned to the Carrier's service July 19, 1954, following which he rendered compensated service for the Carrier on 112 days during the remainder of the calendar year 1954.

Since Claimant had not performed at least 133 days of compensated service during the calendar year 1954, as required by Article I Section 1 (a) of the August 21, 1954 Agreement, he failed to qualify for a vacation with pay during the calendar year 1955 which is what he claims.

He would have qualified under the Carrier's vacation policy, but following the adoption of Section 1 (g) of Article I - Vacations - in the August 21, 1954 Agreement, the Carrier discontinued its vacation policy.

The Carrier never had communicated or enunciated its vacation policy by letter to the Organization as in S.B.A. No. 173 Award 1 Case 5.

For the reasons stated in Awards 6912, 7339, 8123, 8257, 8691 and 8836 this claim should be denied.

A W A R D

Claim Denied.

/s/ Hubert Wyckoff
Chairman

/s/ F. D. Comer
Carrier Member

/s/ W. Ray Clark
Employee Member

Dated at Chicago, Illinois, October 7, 1959.