

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

With Referee Nicholas H. Zumas

Award 23 139

Docket 43 019

PARTIES (Brotherhood of Locomotive Engineers
TO (
DISPUTE (
(Burlington Northern Inc.

STATEMENT OF CLAIM: "Per timeslip number 14 of February 16, 1976, Engineer R. L. Arnold made claim for 100 miles, at the yard rate applicable to an engineer operating BN locomotive number 194, without a fireman, as holiday pay for working a yard assignment on February 16, 1976, Washington's Birthday."

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

Claimant was regularly assigned to the engineers' extra list, a common extra list protecting both road and yard service at Tacoma Yard. During January and February 1976 Claimant had worked in excess of 11 starts in yard service during the 30 day period immediately preceding Washington's Birthday holiday. The day before the holiday and the day after Claimant was called and used on a road assignment. On the holiday he was called and worked a yard assignment.

Claimant's claim for holiday pay was declined by Carrier because he did not work and was not "available" to work a yard assignment on the day before and the day after the holiday.

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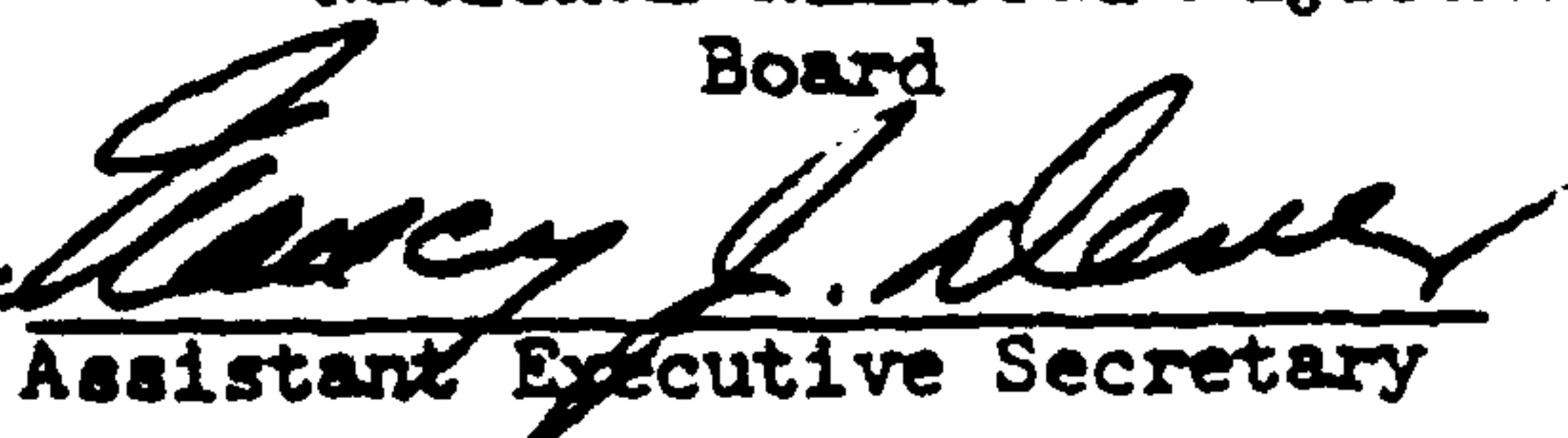
The better reasoned (and a majority) awards hold that because an employe worked on assignments other than yard service on the critical days, this does not make him unavailable for holiday pay purposes. Award No. 2 of Public Law Board No. 2017, Award No. 10 of Public Law Board No. 598, Award No. 4 of Public Law Board No. 900. Award No. 7 of Public Law Board No. 1122, and Decision No. 865 of Special Adjustment Board No. 180. We shall follow such majority and sustain the claim.

AWARD: Claim sustained per findings herein.

DATED AT CHICAGO, ILLINOIS
THIS 15th DAY OF December 1978

NATIONAL RAILROAD ADJUSTMENT BOARD
BY ORDER OF FIRST DIVISION

ATTEST: Executive Secretary
National Railroad Adjustment
Board

By: 
Assistant Executive Secretary