

Award No. 6
Case No. 6

Public Law Board No. 2791

PARTIES
TO
DISPUTE:

Brotherhood of Locomotive Engineers
and
Southern Pacific Transportation Company

STATEMENT
OF
CLAIM:

Claim of Engineer O. Stockton for holiday pay at the rate applicable to a yard engine without a fireman, April 13, 1979, Good Friday.

FINDINGS:

Claimant is an extra engineer. He seeks holiday pay for Good Friday, April 13, 1979.

Article 1 Section 3(a) provides that extra employees on a common extra list protecting both road and yard service shall be entitled to holiday pay if they "meet the qualifications provided in Note 2, paragraph (b) of this Section 3."

Note 2 reads as follows:

"Note 2: To qualify employees on a common extra list protecting both road and yard service must have compensation credited for yard or hostler service on not less than eleven (11) or more of the thirty (30) calendar days immediately preceding the holiday."

The record indicates that claimant worked a total of nine days in the 30-day period immediately prior to

Good Friday if his vacation period from March 5 through 25 is taken into account in computing the 30 days. The question at issue is whether or not the vacation time should be included or excluded from such consideration.

Award 768 of SBA 64 passed upon the question on October 5, 1976 and held that the vacation should be included in determining the pre-holiday 30-day period. It reasoned that if the vacation were excluded, the Board would be adding, in effect, a new provision to Section 3.

While this Referee has had the greatest of respect for the late Chairman of SBA 64, it is his view that the vacation period should not be included in determining the 30-day period in question. There is nothing in the applicable agreement to suggest that an engineer is to be adversely affected, insofar as holiday pay is concerned, by the taking of a vacation. Indeed, the parties were careful to provide that his qualifying days for holiday pay purposes shall be his workdays "immediately preceding and following the vacation period." It may be fairly inferred from the agreement that vacation time is not to be used to defeat a claim for holiday pay. See Public Law Board 88 Award 135 as well as Award 7 of Public Law Board 1225.

AWARD: Claim sustained. To be effective within 30 days.

Adopted at Houston, Texas, *April 27,* 1982.

Harold M. Weston

Harold M. Weston, Chairman

R. F. Guidry
Carriey Member

W. G. Diet
Employe Member