

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

With Referee Robert M. O'Brien

Award 23 227

Docket 43 110

PARTIES (Brotherhood of Locomotive Engineers
TO (
DISPUTE (
(Seaboard Coast Line Railroad Company

STATEMENT "Case No. 77-38
OF CLAIM:

"Time claims numbered 1 and 2 in favor Engineer D. L. Ware for holiday pay, December 24 and 25, 1976; time claims numbered 1, 2 and 1 in favor Engineer H. D. Crosby for holiday pay, December 24, 25, 1976, and January 1, 1977 and claimed numbered 12 and 13 in favor Engineer T. Lee for holiday pay, December 24 and 25, 1976."

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.

On or about December 10, 1976, Claimants successfully completed Carrier's Engineer's Training Program. However, they could not qualify for road service until they passed an oral examination on Carrier's Operating Rules. They claim that it was not until January 13 and 14, 1977, that they were tested on the Operating Rules. Upon completion of the Engineer's Training Program, Claimants were assigned to the extra board at Jacksonville which is a common road-yard board. However, until they were tested on the Operating Rules, Claimants were confined to yard service. They marked up and were available the day before the holidays in question (December 24 and 25, 1976; January 1, 1977), the holidays, and the day following the holiday. As a result, they filed claims for holiday pay under the provisions of Article 45 of the Engineers' Agreement. The claims were denied by the Carrier on the basis that since Claimants were assigned to the common extra board at Jacksonville, the provisions of Article 45, Section 3(b), Note 2 of the Engineers Schedule Agreement were applicable to them. Consequently, in order to be entitled to holiday pay Claimants had to perform service as a yard employee on eleven (11) straight time days during the thirty calendar day period prior to the holiday which, Carrier asserts, they did not do.

In view of these peculiar circumstances, the question that must be addressed here is whether the qualifying language of Article 45, Section 3(b), Note 1 was applicable to Claimants on the holidays in question? Or whether the provisions of Article 45, Section 3(b), Note 2 was controlling. It must be stressed that Note 1 applies only to extra yard service employees whereas Note 2 is applicable to employees on a common extra list protecting both road and yard service. In the instant dispute the distinction is significant since if Note 1 was controlling during the period in question then Claimants were indeed entitled to holiday pay. However, were the provisions of Note 2 controlling then they were not entitled to holiday pay since they failed to have the requisite service, viz. compensation credited for yard or hostler service on not less than 11 or more of the 30 calendar days immediately preceding the holiday(s).

This Division is inclined to believe that the provisions of Note 1 were more applicable to Claimants on the holidays in question than were the provisions of Note 2. On these dates, Claimants were restricted to yard service in the Jacksonville Zone since they had not yet qualified for road service. Until such time as they were tested on Carrier's Operating Rules, it is undisputed that they were precluded from protecting road service. They were confined to yard service through no fault of their own. Accordingly, though it is certainly true that claimants were indeed assigned to a common road-yard extra list, the fact remains that they were not protecting both road and yard service. And since Note 2 by its very terms was limited to those employees on a common extra list protecting both road and yard service, it is obvious that its provisions were not applicable to claimants.

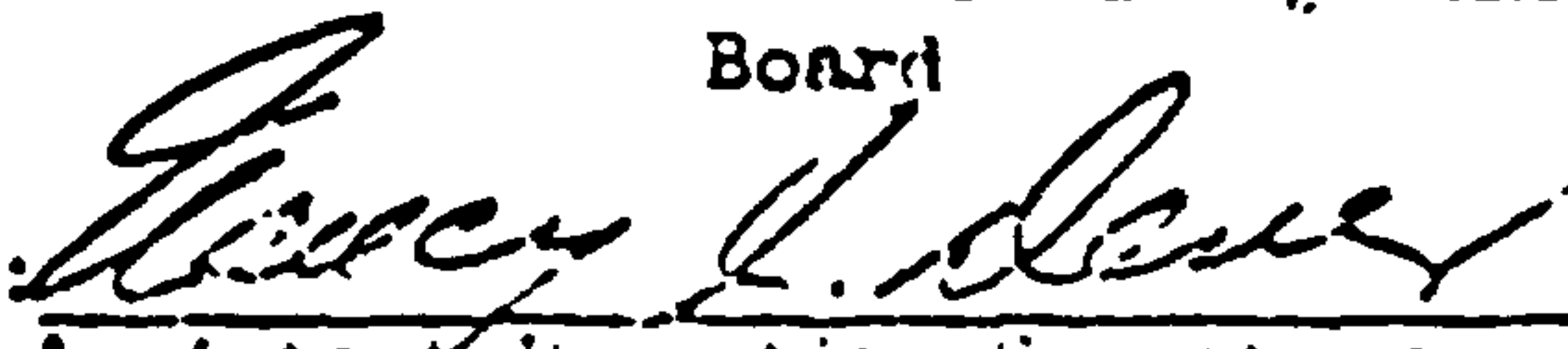
Since the requirements of Note 2 did not cover Claimants on the claim dates, obviously those of Note 1 did. Pursuant to Article 45, Section 3(b), Note 1, Claimants qualified for holiday pay and their claims must be sustained as a result. Yet in view of the peculiar circumstances prevalent herein this Award shall be limited to the instant claims only.

AWARD: Claim sustained:

NATIONAL RAILROAD ADJUSTMENT BOARD
BY ORDER OF FIRST DIVISION

DATED AT CHICAGO, ILLINOIS
THIS 10th DAY OF September 1980

ATTEST: Executive Secretary
National Railroad Adjustment
Board

By: 
Assistant Executive Secretary