

The Carrier contends the instant claim should be barred in accordance with item 15 of the Agreement dated March 25, 1977. It is the Board's opinion that what we stated in Award No. 3 rendered this date has application here and the Board has jurisdiction over this dispute.

The Organization alleges the instant claim has merit and is sustainable on two basis. First, that the provisions of the National Paid Holiday Agreement justify payment, particularly based on the interpretation placed thereon by Award No. 23, Public Law Board No. 2280 (Referee Blackwell); Organization's Exhibit No. 1. Secondly, the Organization contends the Carrier failed to meet the requirements of the Time Limit Rule in denying the claim.

The Claimant was a regularly assigned employe in one of the classes of service listed in Section (A) and claimed the overtime rate for service performed on the Holiday.

The conclusion reached in Award No. 23, PLB No. 2280, simply held that Section (B) of the paid Holiday Agreement has application irrespective of the requirements of Section (C).

It is clear the Agreement deals with two separate and specific conditions. Section (C) stipulates the qualifying conditions necessary for the category of employes listed in Section (A) in order to qualify for a paid Holiday. Section (B) stipulates that employes listed under Section (A) who perform service on the Holiday will be paid at the rate of time and one-half for work performed on the Holiday.

We find no cross reference between Sections (B) and (C). Therefore the Agreement cannot be read to render Section (C) applicable in determining the application of Section (B). The text of Section (B) is the only source of reference governing pay for work performed on the Holiday. The stipulated criteria in reference to Section (B) is that any of the employes listed under Section (A) who work on the Holiday will be paid time and one-half. The conditions found in Section (C) refer only to those qualifying for holiday pay. We find this claim is sustainable for time and one-half under the Holiday Agreement.

The Board will consider the Time Limit issue raised by the Organization for the purpose of clarity. The Claimant filed a time claim for service performed on February 16, 1981, for the time and one-half rate; the rate he apparently assumed applied under the Holiday Agreement. The time claim was accepted and allowed by the Carrier. At some later date, after the ~~thirty~~^{sixty} (30) day period and without issuing a denial, the Carrier recovered the overtime portion of the rate allowed by withholding the difference from a subsequent paycheck.

It is the Board's opinion this situation comes clearly within the provisions of the Time Limit Rule, as it involves a time claim filed by the Claimant. It is not an incident which can be construed as an overpayment resulting from accounting or technical error. The Carrier is obligated to issue a denial of a time claim within the ~~thirty~~^{sixty} (30)⁶⁰ day time limit.

AWARD:

Claim sustained. The Carrier is directed to apply the Award within thirty (30) days from the date of the Award.

Neil P. Speirs
Neil P. Speirs, Chairman & Neutral

C. J. J. J.
For the Organization

J. A. DeRoche
For the Carrier

dated Nov. 5 1985

Detroit, Michigan