

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company)

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

(1) The Carrier violated the Agreement when it failed and refused to allow Mr. E. L. Lucas three (3) days of bereavement leave on July 7, 8 and 9, 1986 (System File M-433/860173).

(2) Mr. E. L. Lucas shall be allowed twenty-four (24) hours of pay at the carpenter's straight time rate."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant is a carpenter in the Carrier's Oregon Division B&B Subdepartment. Claimant was on vacation during the period June 30, 1986 through July 18, 1986. On July 6, 1986, Claimant's brother passed away. Claimant sought to postpone three days of his vacation to a more convenient time and substitute three days of bereavement time off. The Carrier declined Claimant's request. This claim followed.

The relevant Rule states:

"Rule 45. BEREAVEMENT LEAVE

Bereavement leave, not in excess of three calendar days, following the date of death will be allowed in case of death of an employee's brother, sister, parent, child, spouse or spouse's parent. In such

cases a minimum basic day's pay at the rate of the last service rendered will be allowed for the number of working days lost during bereavement leave. Employees involved will make provision for taking leave with their supervising officials in the usual manner. Any restrictions against blanking jobs or realigning forces will not be applicable when an employee is absent under this provision."

We are unable to find that the Organization carried its burden in this matter. First, Rule 45 speaks of "working days lost." When Claimant was on vacation, he was not "working."

Second the Organization's argument that Claimant should have been allowed to postpone his vacation and substitute bereavement leave is not persuasive. The Organization has not cited us to a portion of the Agreement that gives an employee the right to postpone his vacation in such a manner. Further, we do not find that the Carrier's refusal to permit such a change was arbitrary or capricious.

The claim lacks support in the Agreement.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1992.