

Considering that most dismissals are not permanent in nature, it is agreed that such conductor or brakeman dismissed if he desires his vacation allowance while dismissed will submit a time slip requesting the allowance be made and which the Carrier will pay within 10 days from date received by the timekeeper.

This to be effective on the Gulf District.
If you concur, will you please affix your signature as indicated.

AGREED:

/s/ John L. Purdum

/s/ D. J. Smith

/s/ V. O. Niles

ARTICLE C-2 PAID HOLIDAYS - ROAD SERVICE

Article I Section 2 - June 25, 1964 National Agreement as Amended by Article IV of October 15, 1982 National Agreement

The following provisions shall apply to regularly assigned engineers, firemen, hostlers and hostler helpers represented by an organization party hereto in yard service, and regularly assigned road service employees paid on a daily basis:

- a) Each regularly assigned engineer, fireman, hostler and hostler helper represented by an organization party hereto in yard service, and each regularly assigned road service employee in local freight service, including road switchers, roustabout runs, mine runs, or other miscellaneous service employees, who are confined to runs of 100 miles or less and who are therefore paid on a daily basis without a mileage component, and who meet the qualifications set forth in paragraph (c) hereof, shall receive one basic day's pay at the rate for the class and craft of service in which last engaged for each of the following enumerated holidays when such holidays fall on the assigned work day of the work week of the individual employee:

New Year's Day
Washington's Birthday
Good Friday
Decoration Day
Fourth of July
Labor Day
Thanksgiving Day
Day After Thanksgiving Day
Christmas Eve
Christmas Day
New Year's Eve

(The original paragraph here concerning the effective date was left out and the above list revised from this original Agreement.

The holiday pay qualifications for Christmas Eve - Christmas shall also be applicable to the Thanksgiving Day - day after Thanksgiving Day and the New Year's Eve - New Year's Day holidays.

Only one basic day's pay shall be paid for the holiday irrespective of the number of shifts or trips worked.

Note: When any of the above listed holidays fall on Sunday, the day observed by the State or Nation shall be considered the holiday.

- (b) Any of the employees described in paragraph (a) hereto who works on any of the holidays listed in paragraph (a) hereof shall be paid at the rate of time and one-half for all services performed on the holiday with a minimum of one and one-half times the rate for the basic day.

- (c) To qualify for holiday pay, a regularly assigned employee referred to in paragraph (a) hereof must be available for or perform service as a regularly assigned employees in the classes of service referred to on the work days immediately preceding and following such holiday, and if his assignment works on the holiday, the employee must fulfill such assignment. However, a regularly assigned employee whose assignment is annulled, cancelled or abolished, or a regularly assigned employee who is displaced from a regular assignment as a result thereof on (1) the workday immediately preceding the holiday, (2) the holiday, or (3) on the workday immediately following the holiday will not thereby be disqualified for holiday pay provided he does not lay off on any of such days and makes himself available for service on each of such days excepting the holiday in the event the assignment does not work on the holiday, and the holiday falls on a workday of his assignment. If the holiday falls on the last day of an employee's work week, the first workday following his "days off" shall be considered the workday immediately following. If the holiday falls on the first work day of his work week, the last workday of the preceding work week shall be considered the workday immediately preceding the holiday.
- (d) Weekly or monthly guarantees shall be modified to provide that where a holiday falls on the work day of the assignment, payment of a basic day's pay pursuant to paragraph (a) hereto, unless the regularly assigned employee fails to qualify under paragraph (c) hereof, shall be applied toward such guarantee. Nothing in this Section shall be considered to create a guarantee where none now exists, or to change or modify rules or practices dealing with the Carrier's right to annul assignments on the holidays enumerated in paragraph (a) hereof.
- (e) That part of all rules, agreements, practices or understandings which require that crew assignments or individual assignments in the classes of service referred to in paragraph (a) hereof be worked a stipulated number of days per week or month will not apply to the ten holidays herein referred to; but where such an assignment is not worked on a holiday, the holiday payment to qualified employees provided by this rule will apply.
(The above number of holidays has been revised to eleven (11) from this 1982 National Agreement since the effective date of January 1, 1983.)
- (f) As used in this rule, the terms "workday" and "holiday" refer to the day to which service payments are credited.

**July 17, 1968 National Agreement
Article I - Holiday Pay**

Amendments to the Holiday Pay for Road and Yard Service Employees

Effective January 1, 1968, the existing rule covering pay for holidays, set forth in Article IV of the Agreement of April 5, 1957 as amended by Article I of the 1960 National Agreement of November 30, 1960 and Article I, Section 1 of the June 25, 1964 National Agreement, and in Article I, Section 2, of the June 25, 1964 National Agreement and the Letter of Understanding dated November 7, 1966, is hereby amended to provide that:

- (a) (Omitted)
- (b) The requirement that a designated holiday must fall on a workday of the work week of the individual employee for him to receive holiday pay will be eliminated by striking out the following language now contained in Section 2(a) of Article IV, Agreement of April 5, 1957, and in Section 2(a) of Article I, Agreement of June 25, 1964:

"... when such holidays fall on an assigned workday of the work week of the individual employee"

and the following language now contained in Section 2(b) of Article IV, Agreement of April 5, 1957, as amended, and in Section 2(c) of Article I, Agreement of June 25, 1964:

"... and the holiday falls on a workday of his assignment,"

and the provisions of Section 1(a) of Article I, Agreement of June 25, 1964 shall also be eliminated.

- (c) (Omitted)
- (d) When one or more designated holidays fall during the vacation period of the employee, his qualifying days for holiday pay purposes shall be his workdays immediately preceding and following the vacation period. In road service, lost days preceding or following the vacation period due to the away from home operation of the individual's run shall not be considered to be workdays for qualifying purposes.
- (e) Not more than one time and one-half payment will be allowed, in addition to the "one basic day's pay at the pro rata rate," for service performed during a single tour of duty on a holiday which is also a work day, a vacation day ...

April 5, 1957 National Agreement
Article IV - Regular Assigned Yard Service Employee

Section 2 - Paid Holidays - Yard Service

- (a) On the effective date of the option adopted pursuant to Section 1 of this Article IV, each regularly assigned yard service employee, who meets the qualifications provided in paragraph (b) hereof, shall receive one basic day's pay at the pro rata rate of the position to which regularly assigned for each of the following enumerated holidays when such fall on an assigned workday of the work week of the individual employee:

New Year's Day	Fourth of July	Christmas Eve
Washington's Birthday	Labor Day	Christmas Day
Good Friday	Thanksgiving Day	New Year's Eve
Decoration Day	Day after Thanksgiving Day	

Only one basic day's pay shall be paid for the holiday irrespective of the number of shifts worked.

Note: When any of the above-listed holidays falls on Sunday, the day observed by the State or Nation shall be considered the holiday.

- (b) To qualify, a regularly assigned employees must be available for or perform service as a regularly assigned employee on the workdays immediately preceding the following such holiday, and if his assignment works on the holiday, the employee must fulfill such assignment. However, a regularly assigned yard service employee whose assignment is annulled, cancelled or abolished, or a regularly assigned yard service employee who is displaced from a regular assignment as a result thereof on (1) the workday immediately preceding the holiday, (2) the holiday, or (3) on the workday immediately following the holiday will not thereby be disqualified for holiday pay provided he does not lay off on any of such days and makes himself available for yard service on each of such days excepting the holiday in the event the assignment does not work on the holiday, and the holiday falls on a workday of his assignment. If the holiday falls on the last day of an employee's work week, the first workday following his "days off" shall be considered the workday immediately following. If the holiday falls on the first workday of his work week, the last workday of the preceding work week shall be considered the workday immediately preceding the holiday.

Note 1: A regularly assigned yard service employee who qualifies for holiday pay under paragraph (b) above shall not be deprived thereof by reason of changing from one regular yard assignment to another regular yard assignment on the workday immediately preceding or following the holiday or on the holiday.

Note 2: A regularly assigned yard service employee whose assignment is annulled, cancelled, or abolished, or a regularly assigned yard service employee who is displaced from a regular assignment as a result thereof as set forth above in paragraph (b), and who reverts to the extra board, will be considered "available" if he marks himself on the extra board in sufficient time under existing applicable mark up rules to work a tour of duty at the first opportunity permitted by such applicable rules.

Note 3: An employee will be deemed to have performed service or fulfilled his assignment if he is required by the carrier to perform other service in accordance with the rules and practices on the Carrier. (This sub-section (b) is an amendment of the November 30, 1960 National Agreement.)

- (c) Rules governing payment for service rendered on the holiday enumerated are not changed hereby. Service performed on such days shall be paid for at the rate provided in existing schedules, and the allowance of one basic day's pay provided for in paragraph (a) of this Section 2 for qualifying employees shall be in addition thereto.
- (d) In yards operating under strict seniority or mark up boards, determination of "regular assigned employees" for the purpose of applying the qualifying provisions of paragraph (b) of this Section 2 shall be subject to negotiations on the individual properties.
- (e) This Section 2 applies only to regular assigned yard service employees paid on an hourly or daily basis, who are subject to yard rules and working conditions. Except as provided for in Note 3 to Section 2 (b) above, each of the qualifying days of service provided in paragraph (b) of this Section 2 must be performed in yard service. (This sub-section (e) is an amendment by the November 30, 1960 National Agreement.)
- (f) Existing weekly or monthly guaranteed shall be modified to provide that where a holiday falls on the workday of the assignment, payment of a basic day's pay pursuant to paragraph (a) of this Section 2, unless the regular assigned employee fails to qualify under paragraph (b) of this Section 2, shall satisfy such guarantee. Nothing in this Section 2 shall be considered to create a guarantee where none now exists, or to change or modify rules or practices dealing with the carrier's right to annul assignments on the holidays enumerated in paragraph (a) of this Section 2.
- (g) That part of all rules, agreements, practices or understandings which require that yard crew assignments or individual assignments for yardmen be worked a stipulated number of days per week or month will not apply to the seven holidays herein referred to but where such assignment is not worked on a holiday, the holiday payment to qualified employees provided by this Section, will apply.
- (h) As used in this Section 2, the terms "workday" and "holiday" refer to the day to which service payments are credited.
- (i) Nothing in this Section 2 shall be considered to change or modify application of the Vacation Agreement effective July 1, 1949, as amended, and Article 3 (Five Day Work Week) of the Agreement of May 25, 1951, as amended.

Section 3 - Extra Yard Service Employees

- (a) On the effective date of the option adopted pursuant to Section 1 of this Article IV, each extra yard service employee, who meets the qualifications provided in paragraph (b) of this Section 3 shall receive one basic day's pay at the pro rata rate on any of the following enumerated holidays: **Note:** Holidays listed under Section 2 (a), Page 224 above.

Only one basic day's pay shall be paid for the holiday irrespective of the number of shifts worked. If more than one shift is worked on the holiday the allowance of one basic day's pay shall be at the rate of pay of the first tour of duty worked.

Note: When any of the above listed holidays falls on Sunday, the day observed by the State or Nation shall be considered the holiday.

- (b) To qualify, an extra yard service employee must:
 - (1) perform yard service on the calendar days immediately preceding and immediately following the holiday, and be available for yard service the full calendar day on the holiday, or,

- (2) be available for yard service on the full calendar days immediately preceding and immediately following the holiday and perform yard service on such holiday, or,
- (3) if such employee cannot qualify under Section 3 (b) (1), or (b) (2), then in order to qualify he must be available for yard service on the full calendar days immediately preceding and immediately following the holiday, or perform yard service on any one or more of such days and be so available on the other day or days, and compensation for yard service paid him by the carrier is credited on 11 or more of the 30 calendar days immediately preceding the holiday.

Note 1: An employee whose service status changes from an extra yard service employee to a regularly assigned yard service employee or vice versa on one of the qualifying days shall receive the basic day's pay provided in paragraph (a) of Section 3 provided: (formatting revised here)

- (1) if he meets the qualifications set forth in paragraph (b) of Section 3 on the day or days he is an extra yard service employee and
- (2) he meets the qualifications set forth in paragraph (b) of Section 2 on the day or days he is a regularly assigned yard service employee, provided further, that a regularly assigned yard service employee who voluntarily changes his service status to an extra yard service employees of any of the 3 qualifying days shall not be entitled to receive any pay provided for in paragraph (a) of Section 3.

Note 2: For the purpose of Section 3, an extra yard service employee will be deemed to be available if he is ready for yard service and does not lay off of his own accord, or if he is required by the carrier to perform other service in accordance with rules on the carrier.

Note 3: The term "extra yard service employee" shall include an extra employee on a common extra list protecting both road and yard service, except that an employee, while performing road service, shall not be regarded as being available for yard service, unless compensation for yard service paid him by the carrier is credited on 11 or more of the 30 calendar days immediately preceding the holiday.

Note 4: The term "yard service" as used herein applies only to yard service paid for on an hourly or daily basis and subject to yard rules and working conditions.

- (c) Rules governing payment for service rendered on the holidays enumerated above are not changed hereby. Service performed on such days shall be paid for at the rate provided in existing schedules, and the allowance of one basic day's pay provided for in paragraph (a) of this Section 3 for qualifying employees shall be in addition thereto.
- (d) As used in this Section 3 the term "calendar day" and "holiday" on which yard service is performed refer to the day to which service payments are credited.
- (e) Nothing in this Section 3 shall be considered to change or modify application of the Vacation Agreement effective July 1, 1949, as amended, and Article 3 (Five Day Work Week) of the Agreement of May 25, 1951, as amended.

June 25, 1964 National Agreement
Article I - Paid Holidays:

Section 1 - Amendments to Holiday Pay in Yard Service

Holiday provisions currently applicable to regularly assigned and extra yard ground service employees, (conductors (foremen), brakemen (helpers), switchtenders and car retarder operators) are unchanged, except in the following respects:

- (a) Add the following provision to be applicable to the qualifying conditions for extra yard service employees:

For purposes of this Agreement, the work week for extra yard service employees, shall be Monday through Friday, both days inclusive. If the holiday falls on Friday, Monday of the succeeding week shall be considered the work day immediately following. If the holiday falls on Monday, Friday of the preceding week shall be considered the work day immediately preceding the holiday.

Note: This work week shall not be applied to extra yard service employees who have scheduled days off other than Saturday and Sunday, in which event the same principles outlined above will apply in determining the work days immediately preceding and following the holiday.

- (b) Substitute the following provision in lieu of existing rules governing payment for service rendered on the seven specified paid holidays:

Yard service employees who work on any of the seven specified holidays shall be paid at the rate of time and one-half for all services performed on the holiday with a minimum of one and one-half times the rate for the basic day.

(Agreed upon by the Parties Signatory Hereto, And are Based upon and Express the Intent of Such Provisions of That Agreement and Will Have the Same Force and Effect as the Provisions of That Agreement That Have Been Thus Interpreted.)

Questions and Answers

Interpretations of Certain Provisions of

June 25, 1964 National Agreement (Washington)

Article I - Paid Holidays:

Section 2 -

- Q1: A regularly assigned employee holding an assignment subject to Article I, Section 2 is required to protect other service on either of the qualifying days and/or the holiday will he be deprived of holiday pay?
- A1: If such employee performs compensated service at least one day on his regular assignment in the week in which the holiday falls, and is available for or performs service, either on his regular assignment or some other assignment for which he has been called on the qualifying days and provided he performs service or is available for work on the holiday, he will be allowed one basic day's pay at the rate of his regular job as holiday pay. He will not receive time and one-half for service on the holiday unless he works on his regular assignment, and then only if he meets the qualifying requirements, set forth in Article I, Section 2(c), as interpreted herein.
- Q2: An employee is required by reason of his seniority to protect a temporary vacancy on a regular assignment subject to Article I, Section 2, and is available for or performs service thereon on both of the qualifying days and the holiday. Does the employee qualify for holiday pay?
- A2: If no other employee qualifies for holiday pay on such assignment, and an employee is required or takes such vacancy for days which the assignment works in the week in which the holiday occurs, he will be allowed one basic day's pay at the rate of the assignment as holiday pay. If the assignment works on the holiday, he will, in addition, receive time and one-half for service performed on the holiday. This interpretation is not applicable to employees who protect work from the extra board on a day to day basis.
- Q3: An employee is regularly assigned to a through freight assignment operating 100 miles or less per day which performs local work. Will the employee qualify for holiday pay?
- A3: If such an assignment is compensated under the conversion rule on one-half or more of the assigned working days in the thirty calendar days preceding the holiday, the employee will be considered subject to Article I, Section 2.

- Q4: May the Carriers bulletin assignments to provide that they will not operate on holidays?
 A4: If the Carrier had the right to so bulletin jobs prior to the June 25, 1964 Agreement, such right is retained.
- Q5: What service performed by a qualified employee on a holiday is to be paid for at the time and one-half rate?
 A5: Only the service comprehended by the basic eight (8) hour day shall be paid for at the time and one-half rate. Any additional service shall be paid for under existing rules.
- Q6: Are arbitrary payments, in time or mile, to be used as a factor in determining whether or not a run is "100 miles or less" in the application of Article I?
 A6: The "100 miles or less" is computed on the basis of where the mileage of the trip begins and where the mileage of the trip ends.

AWARD NO. 51
 Case No. 42
 February 12, 1976

PUBLIC LAW BOARD NO. 394

Parties) Missouri Pacific Railroad Company
 To)
 Dispute) United Transportation Union (T)

STATEMENT OF CLAIM: Claims of Brakemen R. E. Cunningham assigned with Conductor J. C. Tilley and Brakeman C. L. Jett assigned with Conductor Watts at Freeport for Holiday Pay November 23, 1967.

FINDINGS: This Public Law Board No. 394 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimants were working from the Houston Guarantee Extra Board and were filling temporary vacancies on traveling switchers (TSE) at Freeport, Texas, some 54 miles from Houston.

There is no dispute between the parties that the regularly assigned employees on the Freeport traveling switchers, meeting all of the qualifying criteria of the Holiday Pay Rules, are entitled to pay under those rules. In other words, those switchers are paid on an hourly basis, without any mileage component.

The dispute turns on whether or not these extra employees, who were filling temporary vacancies on the Freeport switchers, are to be treated as regularly assigned employees, as that term is used in the Holiday Pay Rules. At first blush, it would seem not, and that the claims should be denied. There are awards both ways.

In any event, and taking into consideration that these employees were filling temporary vacancies relieving regularly assigned men, and were tied to the Freeport switcher assignments for the duration of the Outside Point Rule (as opposed to working first in first out and catching the jobs only on that basis), this referee will follow what he stated in Award No. 1 of Public Law Board No. 486, to wit:

"There have been many Awards written on this issue and referees have held both ways. Award No. 10 of Public Law Board No. 271 held that the extra man took all of the conditions of the assignment and that holiday pay was one of the conditions of the assignment. We believe the great majority of referees have accepted this opinion. One distinguished referee held contrary, and when the bulk of authority was going in the opposite direction, he reversed himself. It appears that this referee can do no less."