

REVIEW COMMITTEE DECISION

Review Committee File No. 1158
General Construction D.Gr/C 3-71-23

Subject of the Grievance

This grievance involves the question of whether a per diem expense allowance is due for a holiday under the circumstances of this case. Grievant was on vacation from Monday, October 18, through Friday, October 22. Monday, October 25, was Veteran's Day. Tuesday, October 26, was grievant's scheduled birthday holiday. He received a per diem allowance on his birthday holiday and on the three days worked. He was denied the allowance on Veteran's Day on the basis of General Construction administrative rule No. 111.0312 which states, "No expense allowance shall be paid on a holiday if the employee is absent for any reason on both adjacent scheduled workdays."

Union has contended that grievant is entitled to a per diem allowance on Veteran's Day on the basis of Subsection 301.4(a)(3) of the Agreement, which authorizes expense allowance for "holidays which fall on a workday in his basic workweek."

Discussion

Sections 302.1 and 302.2 define workdays in the basic workweek as Monday through Friday. From the facts set forth above, clearly Veteran's Day fell on a workday in the grievant's basic workweek, as did the birthday holiday the following day for which he received a per diem expense allowance. The problem here is the conflict between the Company administrative rule and the provisions of Subsection 301.4(3) of the Labor Agreement.

"Subject to the provisions of this title, an employee who provides his own board and lodging shall be entitled to an expense allowance as follows:

(a) 1 - Holidays which fall on a workday in the basic workweek - ."

The administrative rule predates the revisions of Sections 103.1 and 103.2. The first changed the ground rules for holiday pay with respect to absences and established a "Birthday Holiday." The later section defined when the holiday would be observed and clearly defines such day, under the facts of this case, as a workday. To this extent then in this case the administrative rule is not applicable.

Decision

In the light of the foregoing discussion, the employee is entitled to per diem expenses for Monday, October 25, 1971.

FOR UNION:

W. H. Burr
E. R. Sheldon
L. N. Foss

By 

Date

11-28-73

FOR COMPANY:

J. A. Fairchild
H. J. Stefanetti
L. W. Brown

By 

Date

11-28-73