

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

COLORADO AND SOUTHERN RAILWAY COMPANY

DISPUTE.—Claim of F. W. Hartman, extra telegrapher, for deadheading Fort Collins to Denver on April 21, 1930, after relieved from duty.

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

The carrier and the employee involved in this dispute are, respectively, carrier and employee 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.

The parties to said dispute were given due notice of hearing thereon. A hearing was had. The Third Division failed to agree upon an Award because of a deadlock. Paul Samuell was selected as its Referee to sit with the Division as a member thereof and make an Award.

An Agreement exists between the parties to this dispute bearing effective date of June 16, 1924.

The parties have jointly certified the following facts, and the Third Division so finds them to be:

F. W. Hartman was an extra telegrapher on the Northern Division. He was sent to Fort Collins to fill vacancy of third-trick telegrapher, who was laying off account death in his family. He was paid deadhead time going to Fort Collins from Denver, the divisional terminal and home station. He filled the third-trick telegrapher's position at Fort Collins until the return of regular assigned employee, and when he was relieved he deadheaded to Denver, his home station, from Fort Collins, and made claim for 2 hours and 40 minutes actual time consumed in deadheading for the return movement to home station, Denver.

This claim for return-travel time to home station, Denver, was not allowed. The Telegraphers' claim is based upon the provisions of Rule 19, Paragraph D, of the Telegraphers' Schedule Agreement covering extra men deadheading, which reads as follows:

"(d) Extra telegraphers who have performed initial service, transferred to another position by proper authority, will be paid pro rata for actual time consumed in deadheading.

The Carrier contends that Rule 19 (d) above quoted does not support such interpretation, and, furthermore, it contends that no payments have ever been made for return travel time under identical situations.

This Division is of the opinion that the contention of the Carrier is not well taken. The above quoted Rule provides in substance that an extra telegrapher who has been transferred to another position will be paid for actual time consumed in deadheading. There is no ambiguity in this Rule. It does not limit travel time to *one* way, and this Board is unable to see why the Carrier paid for deadheading one way and refused payment for the other. The extra man must eventually return to his base station, and the Rule sufficiently provides that he shall be paid for deadheading time.

There are other contentions advanced by the employee to support this claim, but it is unnecessary to discuss them in view of the interpretation which we have placed on the above rule.

AWARD

Claim allowed.
By Order of Third Division.

Attest:

NATIONAL RAILROAD ADJUSTMENT BOARD.

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 13th day of August 1935.