

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad Company

(1) That the Carrier violated the agreement in effect between the parties signed at Chicago, Illinois, July 13, 1945, when it blanked positions part time in "GM" Office, St. Louis, January 28, 1947 and refused to require or permit Telegrapher A. Lampe to work her position on this date.

(2) Telegrapher A. Lampe shall be compensated by Carrier for 8 hours at time and one-half rate for work she was entitled to perform on January 28, 1947.

EMPLOYEES' STATEMENT OF FACTS: Telegrapher Lampe held a regular assignment in "GM" office, St. Louis, assigned hours being 10:00 A.M. to 6:00 P.M. on a position requiring a Sunday Assignment of regular week day hours as contemplated by Article 1, Section 1 (a) of the Agreement signed at Chicago, July 13, 1945. The assigned rest day of the position was Tuesday. One other telegrapher position existed in the office with assigned hours 10:00 A.M. to 6:00 P.M. An assistant chief operator position also existed in the office with assigned hours 10:00 A.M. to 6:00 P.M.

Tuesday, January 28, 1947, the Carrier re-arranged the force as follows: The occupant of the assistant chief operator position, starting time 10:00 A.M., called the manager of the office at 8:30 A.M. reporting he was unable to work. A telegrapher with assigned hours 8:00 A.M. to 4:00 P.M. was ordered to perform assistant chief operator duties 10:00 A.M. to 4:00 P.M. A telegrapher with assigned hours 4:00 P.M. to 12:00 midnight was ordered to perform assistant chief operator duties, 4:00 P.M. to 6:00 P.M. One telegrapher position was blanked 10:00 A.M. to 4:00 P.M. One telegrapher position was blanked 4:00 P.M. to 6:00 P.M.

An extra qualified telegrapher was available to relieve the assistant Chief Operator 10:00 A.M. to 6:00 P.M. but instead he was used to relieve Claimant Lampe on a telegraph position 10:00 A.M. to 6:00 P.M. on this date.

POSITION OF EMPLOYEES: There is an Agreement in effect between the parties to this dispute dated June 1, 1942 amended from time to time. One such amendment is the Mediation Agreement (Case A-2070) signed at Chicago, Illinois, July 13, 1945.

This claim is based upon the following quoted portions of that Mediation Agreement: Article 1, Section 1, paragraph (a), (b) and (i):

work the pro rata rate is the rate applicable. See Awards Nos. 2346, 2695, 2823, 2859, 3049, 3195 and 3587 for a few.

OPINION OF BOARD: Claimant Lampe held a regular position in "GM" office, assigned hours 10:00 A.M. to 6:00 P.M., seven days per week with Tuesday the assigned rest day. Another telegrapher and an Assistant Chief Operator were assigned the same hours as the claimant. On January 28, 1947 the Assistant Chief Operator reported that she was unable to work. A telegrapher assigned 8:00 A.M. to 4:00 P.M., was assigned to the Assistant Chief Operator's position from 10:00 A.M. to 4:00 P.M. and another telegrapher with assigned hours 4:00 P.M. to 12:00 midnight, was ordered to work the position from 4:00 P.M. to 6:00 P.M. The first telegrapher's position was blanked from 10:00 A.M. to 4:00 P.M. and the second telegrapher's position was blanked from 4:00 P.M. to 6:00 P.M. An extra qualified telegrapher was available to relieve the Assistant Chief Operator but was used instead to relieve claimant, the day in question being her rest day. The Assistant Chief Operator and the two telegraphers used to fill her position was occupants of six-day positions. It is the contention of the Organization that the extra qualified telegrapher should have been used to fill the position of the Assistant Chief Operator and the claimant used on her own position on her rest day at the time and one-half rate.

The Organization contends that Article 1, Section 1, paragraphs (a), (b) and (i), Mediation Agreement (Case A-2070) of July 13, 1945, controls the result. We submit that these sections refer to the filling of seven-day positions and matters incidental thereto. This rule has no application to the case before us except to authorize the assignment of a qualified extra telegrapher to relief work on rest days where no regular relief assignment has been made. In other words, the assignment of the extra relief man to work the position of claimant was proper unless other material considerations exist. The Organization contends that the Carrier violated the Agreement when it used two telegraphers for six and two hours, respectively, and blanked their regularly assigned positions for those periods.

The holdings seem to be that the six-day guarantee rule was to guarantee employees six days' pay per week, and not to guarantee that every six-day position must be filled six days in the week. This rule is not influenced by the Sunday Rule where the guarantee is that the position will be filled seven days per week and the Carrier permitted, as a consideration therefor, to pay straight time for Sunday work. Consequently, the Carrier did not violate the Agreement when it partially blanked their two six-day positions unless it was done for a purpose prohibited by Agreement rules. In this respect, the Organization cites Rule 10 (e), current Agreement, which provides:

"Employees will not be required to suspend work during regular hours or to absorb overtime."

The record does not show that the two telegraphers whose positions were partially blanked were required to suspend work or to absorb overtime. They were taken from a six-day position and used on another six-day position whose occupant was off duty because of illness. We find nothing in the Agreement which condemns this action. Claimant's rest day could not be blanked and it was filled by an extra qualified telegrapher as the Agreement provides. It is the duty of the Carrier to do all it can to give occupants of seven-day positions a day of rest. We think it did so in the present case in a manner which the Agreement permits.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That there was no violation of the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of December, 1948.