

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

**ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
OF TEXAS**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the St. Louis Southwestern Railway Lines, that extra telegrapher L. S. Bowman shall be compensated at the rate of time and one-half for the eight hours service he performed while relieving the second trick clerk-telegrapher, W. A. McDowell, at Sulphur Springs, Texas, on Sunday, September 21, 1947, instead of pro rata rate at which he was paid.

EMPLOYES' STATEMENT OF FACTS: An agreement bearing effective date December 1, 1934, supplemented by Mediation Agreement A-2070 (Rest Day Rule), effective March 1, 1945, is in effect between the parties to this dispute.

Claimant L. S. Bowman, an extra telegrapher, was instructed by the Carrier to protect second trick clerk-telegrapher position at Sulphur Springs, Texas, Sunday, September 21, 1947, for the purpose of relieving Telegrapher McDowell, incumbent of the Sulphur Springs position, who had been assigned by bulletin to the position of agent-telegrapher at Saltillo, Texas, for the reason McDowell was being transferred to the Saltillo position. Claimant Bowman was instructed to work the Sulphur Springs position Sunday and Monday, September 21 and 22, 1947, after which he would be relieved by Miss Edna Brown, a senior extra telegrapher.

Second trick clerk-telegrapher position at Sulphur Springs, assigned hours 6:30 P.M. to 2:30 A.M., is a position requiring a Sunday assignment of the regular week day hours, and for which position no rest day has been assigned, or rest day relief position created in accordance with Section 1(b) of the Rest Day Rule for the purpose of affording the incumbent thereof one day of rest in each consecutive period of seven days in accordance with the provisions of Section 1 (a) of the Rest Day Rule. Incumbent of this Sulphur Springs position has regularly been required to work the position seven days per week with compensation at the rate of time and one-half for Sunday, the seventh day, which day is considered the rest day on positions requiring a Sunday assignment of the regular week day hours and for which no rest day has been assigned and no rest day relief position created.

We think these facts leave no doubt that Mr. Bowman was properly paid on the date involved. The rule is specific as to payment of extra telegraphers who work on rest days. Mr. Bowman was paid in accordance with the rule, and is not entitled to the penalty claimed. Therefore, the Carrier respectfully requests that claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This may properly be denominated a companion case to Award No. 4258. In that Award we held that the Claimant, McDowell, who had been the second trick clerk-telegrapher at Sulphur Springs, Texas, under an assignment for "seven days per week until relief can be arranged" was improperly held out of service on Sunday, September 21, 1947, in order to make him available as agent-telegrapher at Saltillo, Texas, at 8:00 A. M. on Monday, September 22, 1947, without a resulting violation of the Hours of Service Act. We held that McDowell was to be paid for eight hours, at time and one-half for Sunday, the 21st.

This Claim is for Bowman, who relieved McDowell at Sulphur Springs on Sunday, the 21st, and who was paid the pro rata rate therefore. The Organization contends that Bowman should also have been compensated on the basis of time and one-half. We find nothing in the Rules, however, that entitles an extra man, temporarily filling a regular assignment, to more than the pro rata rate, be the day on which he works a Sunday or another day. Article 14, Section 1 (b) of the Mediation Agreement of September 12, 1945, indicates the contrary, though it is apparently predicated upon the assumption that regular relief assignments will be established when practicable.

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 employe involved in this dispute are respectively carrier and employes 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 the Carrier did not violate 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 17th day of January, 1949.