

Award No. 4983

Docket No. SG-4982

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert O. Boyd, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE LONG ISLAND RAILROAD COMPANY

David E. Smucker & Hunter L. Delatour, Trustees

STATEMENT OF CLAIM: (a) Claim that the Carrier violated the provisions of the Telegraph and Signal Agreement when it did not permit Signalman J. V. Tvrnick to work the full daily assignment of eight hours of the Maintainer's position at Ronkonkoma on August 13, 14, 15, 16, 18, 19, 20, 21, and 23, 1947.

(b) Claim that Signalman J. V. Tvrnick be paid a minimum call of two hours and forty minutes at the punitive rate for each of the above dates at the Maintainer's rate of pay.

(c) Claim that Signalman J. V. Tvrnick be paid at the time and one-half rate for time consumed returning to his regular established headquarters at Jamaica, L. I., from 4:30 P.M. to the time of his arrival of train No. 211 at Jamaica, L. I., on each of the above dates:

EMPLOYEES' STATEMENT OF FACTS: The Maintainer with headquarters at Ronkonkoma, L. I., tour of duty 8:00 A.M. to 4:30 P.M., Sunday relief day, was granted permission to be off duty for personal reasons from August 11th to August 23rd, 1947, inclusive. J. V. Tvrnick, a Signalman in the gang at Jamaica, L. I., with tour of duty from 8:00 A.M. to 4:30 P.M., Sunday relief day, was assigned to cover the Maintainer vacancy, which he did, using his own automobile.

On August 11th and 12th, 1947, he covered the assignment at Ronkonkoma from 8:00 A.M. to 4:30 P.M. For traveling in advance of his normal starting time, he was paid two hours and forty minutes at time and one-half, and for the time spent in travelling from Ronkonkoma after 4:30 P.M. he was paid the time consumed at the pro rata rate of pay.

On August 13, 14, 15, 16, 18, 19, 20, 21, and 23, 1947, Tvrnick was instructed not to travel in advance of 8:00 A.M. and therefore, arrived at Ronkonkoma at approximately 9:30 A.M. Likewise, in the evening he was instructed to leave Ronkonkoma at approximately 3:00 P.M. He was allowed eight hours pay at pro rata rate for each of these dates.

On all the dates he was allowed mileage for the use of his automobile.

The position of Maintainer at Ronkonkoma Section J. Sub-Division 4, was last advertised on December 15, 1944, Bulletin No. 52, at which time the tour of duty was specified 8:00 A.M. to 4:30 P.M., less one-half hour meal period.

Therefore, since it has been conclusively shown that there is no provision of the applicable Agreement or the interpretations thereof which required that the Claimant be permitted to travel between his headquarters outside the regular hours of his assignment, there is no basis for the employees' claim and it should, therefore, be dismissed.

III. Under the Railway Labor Act, the National Railroad Adjustment Board, Third Division, is required to give effect to the said Agreement, and to decide the present dispute in accordance therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act to give effect to the said Agreement which constitutes the applicable Agreement between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board, the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions". The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties thereto and impose upon the Trustees of The Long Island Railroad Company, Debtor, conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take such action.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts are set forth in a joint statement appearing in the submissions. The claim arising from these facts is premised on the proposition that, when the claimant, regularly assigned as signalman in the gang with headquarters at Jamaica, with hours of 8:00 A.M. to 4:30 P.M., relieved a regularly assigned maintainer whose headquarters were at Ronkonkoma and whose tour of duty was from 8:00 A.M. to 4:30 P.M., he had the right to be on the job at Ronkonkoma for the full shift and thus be entitled to pay for travel time before and after the assigned hours.

The Agreement between the parties provides in Article 2, Section 4, that an employee's tour of duty shall begin and end at the same designated headquarters. A precedent on this property, Decision 47, Pennsylvania Railroad—Telegraph and Signal Department Reviewing Committee, established the proposition that the headquarters of a regularly assigned employee, who was serving temporarily in another position as relief, did not shift to the headquarters of the temporary job; nor did he lose the rights or benefits of his own assignment. Further, the implication from Article 2, Section 10 of the Agreement is that an employee, when relieving another, does not lose the benefits of his own assignment but acquires such additional benefits as the temporary job may afford. He does not substitute the relief job for his own. The signalman did not step into the shoes of the maintainer. This is supported by the language of Decision 207 of the System Board of Adjustment where they said the claimant was " * * * entitled only to such earnings as he actually makes by his use on such vacancy, and if the filling of such vacancy results in any loss of earnings on his regular assignment at his headquarters, he will be compensated for such loss of earnings."

The position of the claimant is that, in effect, the job at Ronkonkoma was blanked for a portion of the assigned hours to absorb overtime. But that presupposes the proposition that the Agreement required the Carrier to have a relief man physically on the job for the full period of the assignment. We do not find any such provision in the contract. Without doubt the employee to whom the job was regularly assigned has a right to pay for the full period of the assignment when he is on duty; but the relief employee, whose head-

quarters are elsewhere can only require the prerequisites of his regular assignment. No provision of the contract has been pointed out that prohibits the Carrier from providing a relief for only a portion of the assigned time of a regular bulletined job. The claimant did whatever traveling was done within his assigned working hours. No overtime accrued; and under the provisions of the Agreement the travel during his assigned hours is the same as time worked, for which he was paid. We have found no provision in the Agreement that authorizes the relief to fill the vacancy for the full shift if the management does not require it. Consequently, when the claimant was asked to work at Ronkonkoma only part of the maintainer's shift, it did not constitute a suspension of time in order to absorb overtime because he worked the full period of his own assignment. The claimant was paid the rates provided in Section 10, Article 2, for the period of his regular assignment, and we can find no violation of the Agreement.

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

The facts alleged do not show a 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 31st day of July, 1950.