

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis J. Robertson, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

NORFOLK & WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Norfolk & Western Railway that

1. The Carrier violated the Agreement between the parties covering vacation and rest days when it unilaterally changed the accepted and customary method of compensating employees under the Vacation and Rest Day Rules and

2. The Carrier violated the terms of the Agreement when it required Telegrapher B. F. Norfleet, regularly assigned operator-leverman, hours 4 P. M. to 12 midnight, Suffolk, Virginia, to take thirteen days' vacation, July 12, 13, 14, 15, 16, 1948, and September 24, 25, 26, 27, 28, 29 and 30 and October 1, 1948, paying him for eleven days at the pro rata rate, one day July 13 at the time and one-half rate and refusing payment at the time and one-half rate for September 28, 1948, and

3. The Carrier shall now compensate Claimant Norfleet for September 28, 1948, eight hours at the time and one-half rate.

OPINION OF BOARD: In a previous consideration of this case this Board rendered its Award 4793. In that Award we refused jurisdiction on objection of Carrier because the claim had not been handled with the Committee set up under the Vacation Agreement of December 17, 1941. The Carrier has withdrawn its objection and both parties have requested that we reconsider the case on the previous record, the Vacation Committee having ceased functioning.

The Employees urged in reply to Carrier's submission that two identically parallel cases to the instant case here involved had previously been submitted to the Vacation Committee and it was unable to reach a decision. The two cases so referred to were considered by this Board in its Award 4157 and the claims were denied. We agree with the Employees that the cases are similar. The same reasoning as set forth in the Opinion of the Board in the aforesaid Award is applicable here. Consequently, the disposition of the claim there involved is controlling here.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

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;

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

That 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 19th day of March, 1951.