

Award No. 6282

Docket No. TE-6213

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Railway Company that:

1. The Carrier violated the agreement between the parties when it failed to pay J. G. McCloud eight hours at the time and one-half rate on March 19, 1951 and March 20, 1951, the sixth and seventh days of his work week, and
2. The Carrier shall now compensate the claimant, McCloud, for the difference between the straight time paid and the time and one-half payment due on the two days referred to in paragraph 1.

EMPLOYES' STATEMENT OF FACTS: There is an agreement in effect between the parties dated September 1, 1949.

At the time this complaint arose, claimant was regularly employed second telegrapher at Appalachia, Virginia, with assigned hours 3:30 P. M. to 11:30 P. M.

Prior to March 17th, 1951, his work week consisted of the seven-day period Wednesday through Tuesday, with assigned working days Wednesday, Thursday, Friday, Saturday and Sunday and assigned rest days of Monday and Tuesday.

On March 12, 1951, the claimant was advised by the Carrier that effective March 17th his rest days would be changed from Monday and Tuesday to Thursday and Friday.

In his work week beginning Wednesday, March 14, 1951, claimant worked Wednesday, Thursday, Friday, Saturday, Sunday, Monday and Tuesday, a total of seven days, and for the work performed on the sixth and seventh days, the Carrier allowed him straight time instead of the time and one-half due.

POSITION OF EMPLOYES: It is the position of the employees that the rules of the current agreement require payment at the time and one-half rate for work performed under the circumstances of this case, regardless of whether such work is considered to be "Work in excess of 40 hours", "Work on the sixth or seventh days," or "On rest days"; and that the

In conclusion, the carrier has shown that the entire service performed by claimants was on their assigned work days; that they were not worked more than five days in their work weeks, or on their assigned rest days or the sixth or seventh days of their work weeks; that they were properly compensated for the service performed at the straight time rate of pay in accordance with Rules 4 (i), 4 (k), 6 and 9 (d) of the applicable agreement. Claim for payment at the time and one-half rate for work performed on the days involved is not supported by any rule or provision in the agreement in effect between the parties. Carrier respectfully requests that the Board so hold and that the claim be denied.

All relevant facts and pertinent data used by the carrier in this case have heretofore been made known to the employees' representative.

OPINION OF BOARD This is a companion case to TE-6212 and controlled by what was said in our Award 6281 based thereon.

The only difference is that this claim involves Clerk-Telegrapher J. G. McCloud who is regularly assigned to and occupies the position of second trick clerk-telegrapher, hours 3:30 P.M. to 11:30 P.M., at Appalachia, Virginia. He was affected in the same manner as Lacy by the Carrier's notice of March 12, 1951.

In view of what we said in Award 6281 we find this claim to be without merit.

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 Carrier has not violated the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 3rd day of August, 1953.