

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul N. Guthrie, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (Eastern Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway System; that

1. The Carrier violated the Agreement between the parties hereto when it failed and refused to allow payment for holidays to employes covered by the Telegraphers' Agreement; and
2. The Carrier shall now be required to compensate claimants hereinafter named for 8 hours' pay at the pro rata rate of the positions they occupied on the dates specified in addition to any amount they may have received:

H. R. Cook	—May 31 and July 5, 1954
D. H. Viane	—July 5 and September 6, 1954
G. W. Taylor	—July 5, 1954
J. H. Coddington	—July 5, September 6 and Dec. 25, 1954
T. R. Mooneyham	—December 25, 1954
J. T. Brummitt	—November 25, 1954

EMPLOYES' STATEMENT OF FACTS: Agreements between the parties bearing effective dates of June 1, 1951 and August 21, 1954, are in evidence.

This dispute has been handled on the property in the usual manner to the highest officer designated by the Carrier to handle such disputes in accordance with the Railway Labor Act, as amended and the current Agreement. The Carrier has refused to adjust the dispute on the property.

The question at issue is whether an employe regularly assigned to the extra list for the purpose of performing relief work on regularly assigned positions resulting from the absence of the title holders of said positions is entitled to pay for holidays under the terms of the so-called National Agreement of August 21, 1954 Agreement.

This dispute involves several claimants who were assigned to temporary vacancies on regularly assigned positions embracing a period of time during

"Section 2-b. Extra employees when used to relieve other employees shall be paid the rates applicable to the positions on which relief service is performed, except that when used on printer clerks' positions the rate paid the extra employee will be governed by the provisions of Section 8, Article II of this Agreement."

it is not apparent to the Carrier what possible application the above quoted rule can have in the circumstances presented in the instant dispute, and the Employees' representatives did not, in their handling of the eight individual claims on the property, explain why they cited it. That rule, it will be seen, merely prescribes the rates of pay that are to be allowed extra employees when used to relieve other employees. Certainly there is nothing contained therein which serves to change the **status of an extra employee** to that of a regularly assigned employee for the purpose of applying the holiday provisions of Article II, Sections 1 and 3, of the National Agreement.

The claimants were either "regularly assigned" employees or they were extra employees under the rules of the Agreements. They could not be both. In other words, they obtained the temporary vacancies described in the Carrier's Statement of Facts and continued thereon throughout the duration thereof as extra employees under the terms of the Telegraphers' Agreement, and obviously could not simultaneously be "regularly assigned" employees for the purpose of obtaining holiday pay under the terms of the National Agreement.

In conclusion, the Carrier reiterates that the Employees' claim in the instant dispute is not only wholly without schedule support or merit, but it is furthermore a clear attempt to obtain by an award of the National Railroad Adjustment Board a payment which the Emergency Board rejected. The claim should be denied in its entirety.

All that is contained herein is either known or available to the Employees or their representatives.

(Exhibits not reproduced)

OPINION OF BOARD: This case involves claims on behalf of six named Claimants for holiday pay for certain enumerated holidays. These Claimants were all extra employees, each of whom, under varying circumstances, filled temporary vacancies on regularly assigned positions during the respective periods during which the named holidays occurred.

The essential issue here is whether these Claimants were, during the respective periods involved, "regularly assigned" employees within the meaning of that term as used in Article II, Section 1 of the National Agreement of August 21, 1954. Therefore, for all essential purposes, this is the same issue as that decided in Award 8053.

As in that Award, Third Division Awards 7430, 7431, 7432, 7978, 7979, 7980 and 7982 are controlling. See also Second Division Awards 2052, 2169 and 2297, among others.

In the instant case, as in the cited Awards, Claimants were not regularly assigned employees as required by Article II, Section 1 of the cited National Agreement. Hence they did not meet the conditions which would entitle them to holiday pay.

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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of August, 1957.