

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul N. Guthrie, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
KANSAS, OKLAHOMA & GULF RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Kansas, Oklahoma & Gulf Railway, that:

1. The Carrier violated the agreement between the parties when it failed and refused to properly compensate J. W. Russell, Telegrapher-Clerk, Henryetta, Oklahoma, December 25, 1954, and January 1, 1955.
2. The Carrier shall be required to compensate J. W. Russell an amount equivalent to 8 hours at straight time hourly rate applicable to the Telegrapher-Clerk's position at Henryetta, Oklahoma on each of these dates, December 25, 1954 and January 1, 1955, in addition to that already paid for services on said dates.

EMPLOYES' STATEMENT OF FACTS: An agreement on rules and rates of pay governing working conditions between the parties of this dispute was in effect at the time this dispute arose, effective October 1, 1947, a copy thereof which is on file with this Board and is a ready reference; also the Schedule Agreement revision:

SUPPLEMENT NO. 8 Effective AUGUST 21, 1954, to agreement dated OCTOBER 1, 1947, between KANSAS, OKLAHOMA & GULF RAILWAY COMPANY and its employes represented by THE ORDER OF RAILROAD TELEGRAPHERS, reading in part as follows:

"This Supplemental Agreement is for the purpose of revising the rules of the current agreement between the Parties hereto, in conforming to the provisions of the Chicago Agreement of August 21st, 1954.

(signed) For: KANSAS, OKLAHOMA & GULF RAILWAY
W. A. Carpenter
Vice President & General Manager

J. L. Dodson
Assistant General Manager

For: THE ORDER OF RAILROAD TELEGRAPHERS
W. C. Thompson
General Chairman"

(Exhibits not reproduced.)

OPINION OF BOARD: The confronting claim involves a claim for holiday pay on behalf of Telegrapher-Clerk J. W. Russell for December 25, 1954 and January 1, 1955. Claimant was regularly assigned as Telegrapher-Clerk at Henryetta, Oklahoma with a work week Monday through Friday, with Saturday and Sunday as rest days. It appears that in addition to working his regularly established work week, he customarily worked on one of his rest days, Saturday, at time and one-half rate. The holidays in question occurred on the two successive Saturdays, and Claimant worked both holidays for which he was compensated at the punitive rate. Claim is here made for an additional payment of eight hours at pro rata rate for each of the two holidays.

Petitioner contends that since Claimant regularly worked one of his rest days, such additional day, for all practical purposes, became part of his work week. Hence he was in fact working a work week of six days.

The respondent Carrier relies upon Article II, Section 1 of the National Agreement of August 21, 1954, and therefore, contends that since the holidays in question did not fall within Claimant's regularly established work week of Monday through Friday, he was ineligible for the claimed holiday pay.

This case turns upon the construction of ". . . when such holiday falls on a work day of the work-week of the individual employe", which is part of Article II, Section 1 of the cited National Agreement.

Therefore, the pertinent question is, what was Claimant's work-week within the meaning of the rule? Under the 40-Hour Work-Week Agreement the standard work week is five days, eight hours each. Claimant was unquestionably so assigned, with two designated rest days. The fact that he worked one of these rest days, even with some degree of regularity, does not have the effect of expanding his work week as that term is contemplated in the relevant agreements. Therefore, under the terms of the Article II, Section 1 of the cited National Agreement this claim is not supported. Since this Division does not possess equity powers, the claim must stand or fall upon the construction of the rules of the Agreement. In the instant case the rules do not support the claim.

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

That the parties waived hearing on this dispute; and

That the Carrier and the Employes 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 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.