

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

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PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Elgin, Joliet and Eastern Railway, that:

1. The Carrier violated the Agreement between the parties hereto when it failed and refused to properly compensate D. L. Griffith and Walter Brown for services rendered on July 5, 1954, account Fourth of July holiday.

2. The Carrier violated the Agreement between the parties hereto when it failed and refused to properly compensate Walter Brown, G. E. Foss and D. L. Griffith for services rendered on September 6, 1954, account Labor Day holiday.

3. The Carrier violated the Agreement between the parties when it failed and refused to properly compensate Walter Brown for services rendered on November 25, 1954, account Thanksgiving holiday.

4. The Carrier shall be required to compensate employees named above as follows:

(a) D. L. Griffith and Walter Brown for eight (8) hours at pro rata rate of position occupied July 5, 1954.

(b) Walter Brown, G. E. Foss and D. L. Griffith for eight (8) hours at pro rata rate of position occupied for September 6, 1954.

(c) Walter Brown for eight (8) hours at pro rata rate of position occupied for November 25, 1954.

(The foregoing is in addition to compensation previously paid.)

Section 1 of Article II of the agreement of August 21, 1954, clearly grants only to regular men the benefits sought for Claimants in this case, and because of their status as extra men they were excluded from the provisions of the agreement.

In view of the foregoing, the Carrier believes that a denial award is in order in this case, and it requests that the Board render such an award.

All material data included herein have been discussed with the Organization either in conference or in correspondence.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The facts are not in dispute. Claimants are employed by the Carrier as extra telegraphers who were assigned to relieve the regular incumbents of certain positions and performed services on July 5, 1954 (Independence Day), September 6, 1954 (Labor Day), and November 25, 1954 (Thanksgiving Day), for which services they now claim holiday pay under the provisions of the National Agreement of August 21, 1954, and Article 3(b) of the effective Agreement between the parties, dated September 1, 1949.

Article 3(b) reads as follows:

"All employes shall be paid at an hourly rate. Extra employes shall receive the same compensation in relief service as the employe they relieve."

The language of this rule of the basic Agreement clearly means that an extra telegrapher is to receive the same compensation as the telegrapher who is "regularly assigned" to the position.

The rule speaks of "compensation"—a term of broader meaning than "pay" and certainly inclusive of the latter. It also refers to the "employe" relieved and not to the position itself.

We have consistently held that Article II, Section 1 of the August, 1954, Agreement, applies to the employe who is regularly assigned to the position and not to the position itself. Thus the fact that an extra employe might temporarily be holding a regularly assigned position would not, in and of itself, entitle him to all the benefits thereof, including holiday pay. (Awards 7430, 7431, 7432, 7982). The holiday pay benefit accrues to the person and not the position.

As was said in our Award 7977:

"... the Rule speaks in terms of the person, not of the position. This Board has held that Section 1, Article II of the National Agreement makes compensation thereunder personal to the regularly assigned employe. In turn, Rule 21 by use of both the terms 'person' and 'compensation' makes that personal compensation a measure or yardstick for determining part of the compensation of the extra employe standing in the shoes of the regularly assigned employe. The necessary effect of Rule 21 is to require that Claimant Rupp receive the same compensation for standing in the shoes of the regularly assigned employe that the latter would receive were he not being so

relieved. Rule 21 and Section 1 of said Article II do not conflict. They can be compatibly applied in combination so as to give full effect to each."

The same reasoning was followed in Award 7981 where a contract rule similar to Article 3(b) here was interpreted and applied.

Since holiday pay is payable under the 1954 Agreement to the employee "regularly assigned" and since the basic Agreement of September 1, 1949, requires payment of the same compensation to the extra employee as that paid the regular employee it follows that the extra employee is entitled to pay for holidays occurring on work days within his work week when he is performing the duties of the regular employee.

In the instant case we find and hold that Article 3(b) of the basic Agreement requires that claimants be paid the pro rata hourly rate for the holidays claimed under the provisions of Article II, Section 1 of the August 21, 1954 Agreement.

Claim should be sustained.

**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 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 Carrier violated the Agreement.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon  
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of July, 1958.