

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carroll R. Daugherty, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
THE LAKE ERIE & EASTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Pittsburgh and Lake Erie Railroad (The Lake Erie and Eastern Railroad), that:

1. Carrier violated the Agreement between the parties when it failed and refused to compensate the following named employes on the dates shown, an amount equal to 8 hours, at pro rata rate of positions occupied (in addition to amounts paid) as provided in Article II, August 21, 1954 Agreement:

- | | | |
|--------------------|---|-------------------------------------|
| (a) J. D. Baker | } | Thanksgiving Day—November 25, 1954 |
| W. Schaukowitsch | | |
| M. G. Kristobak | | |
| (b) T. F. Cicerchi | } | Christmas—December 25, 1954 |
| W. J. Skees | | |
| C. P. Starolis | | |
| C. J. Lukenas | | |
| (c) C. P. Starolis | } | New Year's Day—January 1, 1955 |
| (d) R. J. Samuels | } | Washington's Birthday—Feb. 22, 1955 |
| R. E. Klimke | | |
| (e) R. J. Samuels | } | Decoration Day—May 30, 1955 |
| (f) R. J. Samuels | } | Fourth of July—July 4, 1955 |
| L. F. Downey | | |
| C. J. Lukenas | | |

2. Carrier shall be required to compensate each and every of the above named employes, for each date shown, for 8 hours at the pro rata rate of the position occupied on such dates.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective agreement between the Pittsburgh and Lake Erie Railroad Company (the Lake Erie and Eastern Railroad Company) hereinafter referred to as Company or Carrier, and The Order of Railroad Telegraphers, herein-

OPINION OF BOARD: As of claim dates Claimants were extra employees filling the positions of regular incumbents who were then absent from their assignments. Three worked on Thanksgiving Day, November 25, 1954, as well as on their work-days just before and after said holiday. The same work conditions existed for four claimants in respect to Christmas, 1954; for one in respect to New Year's Day, 1955; for two in respect to Washington's Birthday, 1955; for one in respect to Decoration Day, 1955; and for three Claimants in respect to the Fourth of July, 1955. All received time and one-half pay for working on these respective holidays.

The issue presented by these claims for pro-rata pay in respect to the above-mentioned holidays is whether Claimants were "regularly assigned" as of claim dates and were thus entitled to said pay under Article II, Section 1, of the August 21, 1954, National Agreement.

Numerous Awards of the Third and Second Divisions have ruled on this issue in cases involving similar circumstances and agreement provisions. The great majority of these Awards have denied the claims therein on the ground that the extra employees who were substituting for the regular incumbents were not "regularly assigned" within the meaning of that phrase as used in the above-mentioned National Agreement.

There are no facts or rules in the instant case that might provide the basis for a contrary ruling. Accordingly, the Board, following particularly the reasoning adopted in Third Division Awards Nos. 7430 and 8498, finds that the instant claims cannot be sustained.

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 Carrier did not violate the Agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 16th day of April, 1959.