

Award No. 9088
Docket No. SG-8621

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Howard A. Johnson, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY—Eastern District**

STATEMENT OF CLAIM: Claim of the General Committee of the *Brotherhood of Railroad Signalmen of America on the Atchison, Topeka and Santa Fe Railroad*:

In behalf of Signalman V. R. Whittemore for an annual vacation of ten (10) consecutive work days in 1955, or payment in lieu thereof.

EMPLOYEES' STATEMENT OF FACTS: Signalman V. R. Whittemore entered the service of this Carrier in the Signal Department on August 19, 1949, and worked continually in that department until he was inducted into the military service in August of 1952. Signalman Whittemore worked one or more years of 160 days each before being inducted into the military service, thereby qualifying for one or more vacation periods prior to his being inducted into the military service.

After being released from military service in August 1954, and having complied with the terms of the so-called Military Agreement and applicable laws, he returned to the service of this Carrier in its Signal Department on August 28, 1954.

Signalman V. R. Whittemore applied for a vacation for 1955 in accordance with the policy adopted by this Carrier in 1945 and agreed to by the Brotherhood but was denied a vacation in 1955 on the grounds that the August 21, 1954 National Agreement had cancelled this adopted policy which was agreed to by the Brotherhood.

For ready reference, we quote the adopted policy which was furnished General Chairman Lewis by Assistant to Vice President S. C. Kirkpatrick in a letter dated November 1, 1945, as follows:

"A veteran who returns to active service with the Santa Fe prior to the close of any year in accordance with the terms of the

OPINION OF BOARD: Claimant Whittemore was in Carrier's service from August 4, 1949 until August 9, 1952, when he was inducted into military service. He returned to Carrier's employ on August 30, 1954, upon his military release, and performed 85 days of compensated service there during 1954. The claim is that he was entitled to an annual vacation of ten consecutive work days in 1955, or payment in lieu thereof.

The facts, applicable Agreements, issues and contentions are precisely the same as in Award 9087 and necessitate the same conclusions.

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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November, 1959.