

Award No. 9252
Docket No. TE-8945

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Minneapolis, St. Paul & Sault Ste. Marie Railroad, that:

1. The Carrier violated the agreement between the parties when it improperly relieved H. F. Cornelissen for vacation August 6 through August 24, 1955.

2. Carrier be required to pay H. F. Cornelissen an amount equivalent to fifteen days' pay at the time and one-half rate (in addition to amount already received) for this vacation period.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties to this dispute are available to your Board and are by this reference made a part hereof.

On the Gladstone Division of the Carrier, at Ladysmith, Wisconsin, it maintains round-the-clock service with three telegraphers' positions. The first shift starts at 7:00 A.M.; the second at 3:00 P.M., and the third at 11:00 P.M. There is a regularly assigned relief position at this location to perform the rest day relief service which relieves the first shift on Saturdays and Sundays; the second shift on Mondays, and the third shift on Tuesdays and Wednesdays of each week. Claimant H. F. Cornelissen is regularly assigned to this relief position, designated as Relief Position No. 4.

The vacation assignment list on the Gladstone Division for the calendar year 1955, covering Agents and Operators, was issued by this Division Superintendent under date of January 7, showing the name of H. F. Cornelissen, Vacation Period August 6 to 24 inclusive, Number of Working Days 15. This in accordance with Article 4 of the Vacation Agreement.

OPINION OF BOARD: Claimant Cornelisson held the relief position for the three shift assignments at Ladysmith. Due to unexpected conditions no extra or vacation relief employe was available at his vacation time and operator Feucht, who was regularly assigned to the third shift at Ladysmith, worked the relief position during this period. Claim for pay for vacation period at time and one-half rate is made in behalf of operator Cornelisson on the ground that he was improperly relieved and should have been required to work his vacation.

As applied to relief work under Rule 22 (a)5 there was an emergency and under Section 12 (b) of the Vacation Agreement and Rule 22 (h) of the Agreement Operator Feucht was properly used to fill the vacation vacancy.

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

That the parties waived oral hearing;

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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of February, 1960.