# Award No. 9656

# Docket No. CL-8995

## NATIONAL RAILROAD ADJUSTMENT BOARD

## THIRD DIVISION

Joseph E. Fleming, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

1. Carrier violated the provisions of the Clerks' Rules Agreement on Decoration Day, Monday, May 30th, 1955 and July 4, 1955, both legal holidays, when it failed to permit relief caller A. E. Born, Jr. to perform the work occurring on Position No. 169, his regular assignment on those dates, and permitted the duties regularly assigned to Position No. 169, on those dates to be performed by Crew Director John Connery, who was regularly assigned to Position No. 252.

2. Carrier shall now compensate relief caller A. E. Born, Jr. for eight (8) hours at the penalty rate of time and one-half for May 30, 1955 and July 4, 1955, and all subsequent holidays on which the Carrier refuses to permit him to perform the duties occurring on his position.

EMPLOYES' STATEMENT OF FACTS: Employe A. E. Born, Jr. is regularly assigned to position of Relief Caller Position No. 14, at Bensenville, Illinois with assigned rest days of Friday and Saturday and rate of pay and working hours of the position on which he relieves.

Relief Position No. 14 is assigned to relieve T. H. Myers on Position No. 169 Sundays and Mondays. The assigned hours of Position No. 169 are 7:30 A. M. to 4:00 P. M., with a meal period assigned from 12:00 Noon to 12:30 P. M., and the rate of pay is $15.247 per day.

Employe Born was advised by Carrier he would not work Position No. 169 on Decoration Day, May 30th, 1955 and Independence Day, July 4, 1955.

The duties normally assigned to Position No. 169, which are performed by employe Myer on the regular work days of the position, and performed by employe Born on the rest days, consist of calling all road crews for trains for Milwaukee, Dubuque and Illinois and Terre Haute Divisions. On May 30th and July 4, 1955, this work was performed by Crew Director, John Connery.

of both positions include the calling of yard, train and engine crews and the work related thereto and if there was any separation in the work—and we do not agree there was—it was as a matter of convenience and not in accordance with the assignment of the work to the positions as reflected by the bulletins, Carrier's Exhibits "B" and "C". The duties assigned to Position 252 were crew calling work. The duties assigned to Position 169 were also crew calling work. The work required on the holidays was crew calling work. That work on the holiday was sufficient to require the service of only one crew caller. Employe Connery was not only the senior crew caller but the overtime work performed on the holidays was preponderantly the duty of his position and his use for the overtime work on the holidays was strictly in accordance with the provisions of Section 2 of Memorandum 9 referred to above.

There can be no basis for this claim which represents an attempt on the part of the employes to have the Carrier needlessly call a second caller on a holiday when the service requirements can be met through the use of one caller. The claim is not supported by the schedule rules; in fact, Section 2 of Memorandum 9 specifically supports the Carrier's action in this case. We therefore respectfully request that the claim be denied.

(Exhibits not reproduced)

OPINION OF BOARD: Claimant alleges that he was not allowed to work his Caller Position on holidays, May 30 and July 4, 1955. The work he usually performed on such work days was performed by Crew Caller Connery. The record shows that Connery was a higher rated employe, was entitled to the work, and did not take any work away from Claimant. Connery was not only properly used those holidays under the applicable rules, but the work he performed was work within the bulletined description of duties for that position, so therefore the agreement has not been violated and the claim must be denied.

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 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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 1st day of December, 1960.