

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Carl R. Schedler, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

GEORGIA RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Georgia Railroad, that:

1. Carrier violated Article 5 of Vacation Agreement, effective the calendar year 1942, as embodied in its Agreement with Telegraphers effective September 1, 1949, when commencing December 1 and continuing through December 2, 1955, it failed to relieve Agent-Telegrapher J. M. Towns, Conyers, Georgia, for his vacation as provided for in Vacation Schedule set up July 14, 1955, wherein he was assigned dates of December 1 through 21, and did not relieve him until December 5, 1955 (December 3 and 4 being rest days on the position).

Further, it violated Section 4 of the Amended Vacation Agreement, effective January 1, 1955 as provided for in Agreement dated May 20, 1955, when it refused to pay employe at the rate of time and one-half in addition to the pro-rata rate paid on December 1 and 2, 1955.

2. Carrier shall now compensate J. M. Towns, Agent-Telegrapher, Conyers, Georgia, for sixteen hours at the rate of \$3.127 per hour.

EMPLOYEES' STATEMENT OF FACTS: At Conyers, Georgia there is one position covered by the Telegraphers' Agreement which is classified as agent-telegrapher, with assigned hours 8:00 A. M. to 5:00 P. M., Monday through Friday. The position is regularly assigned to J. M. Towns.

In accordance with Carrier's vacation schedule of July 14, 1955, Claimant Towns was assigned a vacation starting on December 1, 1955. On November 28, 1955, Claimant Towns was notified by the Carrier that he would be relieved for his vacation beginning on December 5. The Carrier advanced no reason why his vacation was being deferred. In accordance with Carrier's

OPINION OF BOARD: This dispute results from the parties being unable to agree on one material fact. Did illness of other employes create an emergency condition necessitating the Carrier's deferment of the beginning date of the Claimant's vacation? The Carrier contends such an emergency did exist and the Organization does not agree. In our opinion, the record adequately supports a finding that illness of other employes created emergency conditions requiring the Carrier to delay the Claimant's vacation for two days until a replacement could be secured.

The Claimant's vacation was to begin on December 1, 1955. On November 28, 1955 he was advised that he could not be relieved until December 5. He worked December 1 and 2, December 3 and 4 being off days. He commenced his vacation on December 5, totaling 3 weeks vacation. The Organization contends he should be paid time and one-half in addition to his regular pay, for work performed on December 1 and 2 for the reason that, under the Vacation Agreement an employee's vacation shall not be deferred unless he has received 10 days notice. The Claimant did not receive 10 days notice in this controversy. The Agreement also provides that when emergency conditions prevent 10 days' notice need not be given. The Carrier asserts it could not give 10 days' notice because illness of other employes prevented such action, and that it relieved the Claimant for his vacation just as soon as it could.

The Board has held in many cases that illness may create an emergency. The record discloses that the extra operator scheduled to relieve Claimant was diverted to another assignment because another extra operator was laid off sick prior to November 28, the date the Claimant was advised his vacation would be deferred. The illness was an emergency not contemplated by the Carrier, and it did not violate the Agreement when it delayed for 2 days the beginning of the Claimant's vacation.

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 Employee involved in this dispute are respectively Carrier and Employee 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 16th day of February 1962.