

**Award No. 11601**

**Docket No. TE-10386**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**David Dolnick, Referee**

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**THE ATCHISON, TOPEKA AND SANTE FE  
RAILWAY COMPANY  
— Western Lines —**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Panhandle and Santa Fe Railway that:

1. The Carrier violated the Agreement between the parties when it failed to assign L. R. Isch to perform work required on a rest day of his assignment at Etter, Texas on December 30, 1956 and thereafter refused to compensate him for the day's work it thus caused him to lose; and

2. The Carrier shall now be required to pay L. R. Isch the equivalent of 8 hours' pay at the time and one-half rate applicable to the agent's position at Etter, Texas.

**EMPLOYES' STATEMENT OF FACTS:** An Agreement between the parties, bearing effective date of June 1, 1951, is in evidence.

This Agreement provides for the establishment of a work week of 40 hours consisting of five days of eight hours each with two consecutive days off in each seven. It also provides that efforts will be made by the parties to agree on the accumulation of rest time and the granting of longer consecutive rest periods.

Obviously on a large railroad, where a number of one-man agencies are open six days each week, Monday through Saturday, with assigned rest days of Saturday and Sunday, it is impossible to relieve all of the agents on Saturdays by extra employees. It was therefore necessary to select a group of such stations where rest days can be accumulated and by agreement provide for the incumbents to work six days each week for five weeks to be relieved the following week by incumbent of a regularly assigned rest day relief assignment, assigned to work at each of the five stations one week, observe the rest days which he had also accumulated on his own assignment and again begin the cycle of relief work.

The stations at Perryton, Dumas, Kings Mill, Spearman and Etter, Texas, were open six days each week. It was agreed that the incumbents of each of the agent's positions would accumulate Saturday rest days as above described and a regularly assigned rest day relief assignment be established to perform the necessary rest day relief work at the respective stations every six weeks.

the Carrier to violate the clear and unambiguous provisions of the aforementioned and referred to Article III, Section 14, of the Telegraphers' Agreement.

A denial of the Employees' claim in the instant dispute is therefore respectfully requested, for the reasons hereinbefore expressed.

The Carrier is uninformed as to the arguments the Organization will advance in its ex parte submission and accordingly reserves the right to submit such additional facts, evidence and argument as it may conclude are required in replying to the Organization's ex parte submission.

All that is contained herein is either known or available to the Employees or their representatives.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The facts are not in dispute. The stations at Perryton, Dumas, Kings Mill, Spearman and Etter, Texas were each open and operating six days a week — Monday through Saturday. An Agent-Telegrapher was regularly assigned to each station.

The Agreement between the parties provides for a 40-hour work week in five days of eight hours each with two consecutive days of rest. It was agreed by the parties and the employees that the Agent-Telegrapher at each of the five stations work six days — Monday through Saturday. Saturday was a rest day for each. Such Agent-Telegraphers were permitted to accumulate five successive Saturday rest days and they were then relieved during the sixth week by a regularly assigned relief Agent. This relief Agent worked six consecutive days — Monday through Saturday — at each of the five stations while the regularly assigned Agent-Telegrapher was off. The relief Agent also accumulated five consecutive days and was off every sixth week.

Mr. R. D. Guill was the regularly assigned Agent-Telegrapher at Etter, Texas. Claimant was the regularly assigned Relief Agent-Telegrapher. From Monday, December 24, 1956, through Saturday, December 29, 1956, Claimant relieved Guill on the latter's accumulated rest days. It was necessary to have an Agent-Telegrapher at Etter, Texas on Sunday, December 30, 1956. Carrier assigned Guill, the regularly assigned Agent-Telegrapher to work that day. Petitioner states that, under the terms of the Agreement, Claimant should have been assigned. No extra or unassigned employee who did not work 40 hours that week was available.

Article III, Section 14 of the Agreement reads:

"Section 14. Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employee who will otherwise not have 40 hours work that week; in all other cases by the regular employee."

Guill was the regularly assigned Agent-Telegrapher at Etter, Texas. Every Sunday was one of his regularly assigned rest days. He was off each Sunday except in emergencies when work was required on that day and when no extra employee was available. The one week of rest taken every sixth week included his five previously accumulated consecutive Saturdays, his Saturday rest day that week, and his regular Sunday rest day that week.

Claimant also observed every Sunday as one of his rest days. He, too, was off every sixth week which included five accumulated consecutive Saturdays—one at each of the five stations. His Sunday rest day was for his regular relief Position No. 9025 and not for the Agent-Telegrapher position at Etter or at any of the other four stations.

Claimant was not the "regular employee" at the Etter station during the week of December 24, 1956 through December 30, 1956. Guill was the "regular employee." Claimant was the regular employee on Position No. 9025 which that week included assignment as Relief Agent-Telegrapher Monday through Saturday at the Etter, Texas station. Claimant's relief position was bulletined to work Monday through Saturday with Sunday as a rest day. He is a "regular employee" on that position only.

Petitioner argues, and cites several Awards of this Division, that the order of rest day relief assignments should first go to the regularly assigned relief employee; second, to an available extra employee; and last to the regular occupant of the position. We have no quarrel with this general principle. But we do not agree that Claimant was the regularly assigned relief employee for the Agent-Telegrapher position at Etter, Texas, for Sunday, December 30, 1956. He was only the regularly assigned relief employee for Guill for the five consecutive Saturdays previously accumulated and which that week represented Monday through Friday, December 24 through December 28, 1956. He was also the regularly assigned relief employee for Guill's rest day on Saturday, December 29, 1956. Claimant's position was bulletined as a relief Agent-Telegrapher scheduled to relieve other Agent-Telegraphers Mondays through Saturdays inclusive. His position scheduled no relief assignments on Sundays. That day was Claimant's rest day on his own position as bulletined.

On the basis of all of the facts in the record, Carrier properly assigned Guill to work on Sunday, December 30, 1956.

**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 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 Carrier did not violate the Agreement.

#### AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of July, 1963.