

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Michael J. Stack, Jr., Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Railway that:

1. Carrier violated the Telegraphers' Agreement when it required C. H. Shelton, regularly assigned relief telegrapher-leverman to suspend work during his regular hours on his assigned position at "BJ" Tower, Mt. Carmel, Illinois, November 19, 20, 24, 25, 26, and 27; December 1, 2, 3, and 4, 1956; and January 7, 8 and 9, 1957, and work the third shift Telegrapher-Leverman position, "BJ" Tower, Mt. Carmel, Illinois.

2. Carrier shall compensate C. H. Shelton the difference between the pro rata rate he was paid and the time and one-half rate to which he was entitled when he was required to work the third shift position outside his regular assigned hours at "BJ" Tower, Mt. Carmel, Illinois on the dates enumerated in paragraph 1.

EMPLOYES' STATEMENT OF FACTS: Claimant C. H. Shelton is the regular assigned rest day relief Telegrapher-Leverman at "BJ" Tower, Mt. Carmel, Illinois. His relief assignment with assigned hours and rest days is programmed as follows:

First Shift	Saturday and Sunday	8:00 A. M. to 4:00 P. M.
Second Shift	Monday and Tuesday	4:00 P. M. to 12 MN
Third Shift	Wednesday	12 MN to 8:00 A. M.
Assigned Rest Days	Thursday and Friday	

Mr. R. C. Kelley is the regular assigned First Shift Telegrapher-Leverman at "BJ" Tower, Mt. Carmel, Illinois. His assigned work week begins on Monday with rest days of Saturday and Sunday. His assigned hours are 8:00 A. M. to 4:00 P. M.

On November 17, 1956, Claimant Shelton was suspended from his own position by the Carrier and instructed to work the Third Shift Position while it was on bulletin. On each day that Claimant worked the position, he worked eight hours outside of his regular assigned hours as rest day relief Telegra-

thereunder and of prior Board decisions on issues identical in principle, there can be no conclusion other than that the claim is without any basis.

CONCLUSION

Carrier has shown that:

(a) The effective Telegraphers' Agreement was not violated as alleged, and the monetary demand here made by the ORT is not supported by it.

(b) Utilizing regularly assigned employees on shifts different from those which would ordinarily be worked or in transferring employees of the telegraphers' class or craft from one position or assignment to another, is a former accepted practice under the Telegraphers' Agreement, all of which is clearly evidenced by the plain language of the agreement and affidavits attached hereto and made a part hereof.

(c) Claims identical in principle have heretofore been denied by prior Board awards.

When the agreement is considered in its entirety in the light of practices thereunder and prior Board decisions, the Board cannot do other than make a denial award.

All evidence here submitted in support of Carrier's position is known to employe representatives.

Carrier, not having seen the ORT's submission, reserves the right, after doing so, to make reply thereto.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same in all material respects as in Docket No. TE-10302, Award No. 11970. We adopt the opinion therein as determinative of the issues in this case.

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 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 19th day of December 1963.