

Award No. 12657
Docket No. TE-11082

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, 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 on September 10, 11, 12, 13, 16, 17, 18, 19, 20, 23 and 24, 1957, it forced Agent-Telegrapher J. J. Barrett, Rockport, Indiana, to suspend duties on his regular assignment at Rockport, Indiana and sent him to Chrisney, Indiana to perform duties as agent there. Carrier will compensate Mr. Barrett eight (8) hours' pay at his Rockport rate, \$2.21 per hour, \$17.68 per day, for each day September 10, 11, 12, 13, 16, 17, 18, 19, 20, 23 and 24, 1957, which he went to Chrisney to protect the duties of the agent there.

2. Carrier violated the Telegraphers' Agreement when on September 25, 26 and 27, 1957, it forced G. E. Souders, Agent-Telegrapher, Rockport, Indiana, to suspend duties on his regular assignment at Rockport, Indiana from two to three hours each day and sent him to Chrisney, Indiana to perform duties as agent there. Carrier shall compensate Mr. Souders eight (8) hours' pay at his Rockport rate, \$2.21 per hour, for each day September 25, 26 and 27, 1957, for going to Chrisney, Indiana to perform the duties of agent there.

EMPLOYEES' STATEMENT OF FACTS: During the period September 10 through September 24, J. J. Barrett was the regularly assigned agent at Rockport, Indiana. The agency position had a work week of Monday through Sunday, with Saturday and Sunday as rest days. It had assigned hours 8:00 A.M. to 5:00 P.M., with one hour off for lunch.

Mr. T. E. Byers was the regularly assigned agent at Chrisney, Indiana, which is located approximately nine miles from Rockport, Indiana.

On August 26, 1957, the following message was issued by Chief Dispatcher F. I. Geddes:

OPINION OF BOARD: T. E. Byers, regularly assigned Agent-Telegrapher at Chrisney, Indiana, was released for vacation starting Monday, September 9, 1957, and extending through Friday, September 27, 1957. Byers was instructed by the Chief Dispatcher on August 26, 1957, to post a notice on his office door stating that the Chrisney office would be closed during the vacation period and that the Chrisney business, if any, would be handled by the Agent-Telegrapher at Rockport, Indiana.

Claimant, J. J. Barrett, was the regularly assigned Agent-Telegrapher at Rockport, Indiana, who worked between 7:00 A.M. and 4:00 P.M. Monday through Friday with Saturday and Sunday as rest days.

Sometime after Mr. Byers was notified to start his vacation on September 9, 1957, the Carrier must have decided that it was desirable to open the Chrisney office for a few hours each day. The record does not disclose when or why this was done. In any event, Carrier directed Claimant, Barrett, to work part of his regularly scheduled workday at Chrisney. He, accordingly, spent an average of approximately 2½ hours a day working at Chrisney and traveling from Rockport to Chrisney and return—about eight miles each way. Claimant, Barrett worked these hours as directed on September 9 through September 24, 1957.

Claimant, G. E. Souders, worked the same schedule on September 25, 26 and 27, 1957.

Both Claimants were paid the higher rate for the hours they worked at Chrisney and each received \$5.00 a day as provided in Rule 14 (b) and Rule 15 respectively.

Each Claimant worked at Chrisney during his regular scheduled hours. Neither Claimant was required to suspend work during his regular scheduled hours to absorb overtime. Each Claimant was paid for eight (8) hours on each of the dates mentioned in the claims, plus the differential for the hours worked at Chrisney and plus \$5.00 for each of the days.

This is not a claim on behalf of a senior idle, available, qualified telegrapher who may have been entitled to this work at Chrisney under Rule 21 (b) which says:

“(b) Temporary vacancies of less than thirty (30) days will be assigned to the senior available qualified extra employee.”

Petitioner nowhere contends that there was a senior available qualified extra employee who should have been assigned to the temporary vacation vacancy. In the absence of such an allegation, we conclude that there was no senior qualified extra employee available.

Rule 15 says:

“When, by competent authority, an employee is sent from his regular office to another office at a different city or town to work extra, he will be paid five dollars per calendar day for expenses, in addition to his regular pay, computed until he returns to his regular position; provided that employees will not be paid twice for the same service.”

Petitioner argues that this Rule is not applicable. We do not agree. This Rule applies whether an employe is diverted to work at another office for a full day or part of a day. Claimants may not be paid twice for the same service.

A similar type of claim was resolved by this Division of the Board in Award 12396. In that case an employe was absent five days because of a death in his family and the Claimant was directed to work that position one hour on each of the days within his regular eight hour shift. Claimant in that case also received \$5.00 per day expense allowance in accordance with Rule 15. That claim was denied.

Award 12396 is sound and applicable to the claims in this Docket. We affirm the principle there enumerated. This principle applies whether the temporary vacancy is due to illness or 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 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 Carrier did not violate the Agreement.

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 June 1964.