

Award No. 12799
Docket No. TE-11809

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE NEW YORK, CHICAGO AND ST. LOUIS
RAILROAD COMPANY**

(Wheeling and Lake Erie District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York, Chicago & St. Louis Railroad (The Wheeling & Lake Erie District) that:

1. The Carrier violated the parties' Agreement when it required I. A. Cogan to work six days in his work week beginning Monday, October 13, 1958, and refused to compensate him at the time and one-half rate of his position for work performed on the sixth day thereof.
2. The Carrier shall, because of the violation set out above, compensate I. A. Cogan for the difference between the straight time paid and the time and one-half rate due for work performed on October 18, 1958.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective, as to rules, February 1, 1952, and as to rates of pay, February 1, 1951, and as revised.

I. A. Cogan is the regularly assigned occupant of the Agent-Telegrapher position at East Canton, Ohio, with assigned hours 8:00 A.M. to 5:00 P.M., one hour meal period, work week Monday through Friday, rest days Saturday and Sunday.

On October 13, 1958, Chief Train Dispatcher Counts sent the following wire notice to Claimant Cogan:

"Effective October 17, 1958, the assigned rest days of agent-telegrapher East Canton will be Sunday and Monday."

As a result of such change of rest days, Claimant Cogan in his work week beginning on Monday, October 13 (the first day upon which the assignment was bulletined to work) worked that day; and then worked Tuesday, October

It is plainly evident that the day involved in the instant claim was a work day of the claimant's new work week. No time and one-half payment is in order.

Since the advent of the five-day work week in 1949, the Carrier has on many occasions changed the rest days of employees under this agreement. Following are a few of such instances picked at random from the files where the change resulted in the employees having to work more than five consecutive days:

Name	Date Notified	Consecutive Days Worked
V. N. Terry	3/1/50	7
R. Ream	3/1/50	7
G. A. Leath	11/26/57	6
R. H. Conoway	5/18/56	6
H. A. Roe	2/18/58	7
G. A. Storl	10/13/58	6

No claim for time and one-half was ever made or allowed covering these instances.

The Carrier has shown that the claim is without merit under the rules and under practices in effect since the adoption of the five-day work week. It should therefore be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue presented in this dispute has been resolved by this Board in Docket TF-11504. The reasons were stated in Award No. 9962 and were concurred within a line of awards including Nos. 8868, 9243, 9548, 12600 and 11991. We, therefore, sustain the claim.

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 the Agreement was violated.

AWARD

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1964.