

Award No. 12911
Docket No. TE-12067

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Lee R. West, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
GULF, COLORADO AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Colorado and Santa Fe Railway, that,

1. The Carrier violated the Agreement between the parties when it refused and continues to refuse to compensate E. C. Wood at the time and one-half rate for work performed on his rest days, Monday and Tuesday, February 16 and 17, 1959, and

2. The Carrier shall be required to pay E. C. Wood the difference between the pro rata and time and one-half rates for work performed on Monday and Tuesday, February 16 and 17, 1959.

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

The Carrier maintained a position of printer clerk at Galveston, Texas, with assigned hours 11:30 P. M. to 7:30 A. M. For an extended period of time this position was assigned five days per week, Wednesday through Sunday, with Monday and Tuesday as rest days.

Effective Monday, February 16, 1959, the rest days of the 11:30 P. M. to 7:30 A. M., printer clerk position at Galveston were changed from Monday and Tuesday to Saturday and Sunday.

Claimant Wood, in his work week, which began to run Wednesday, February 11, 1959, was required to work Wednesday, February 11 through Tuesday, February 17, 1959, a total of seven consecutive days. He was paid 8 hours at the pro rata rate for the sixth day, Monday, February 16 and the seventh day, Tuesday, February 17, 1959.

The Employees filed claim requesting payment for eight hours at the pro rata rate for Saturday and Sunday, February 14 and 15, 1959, which was in error, and for the difference between the pro rata rate and the overtime rate for Monday and Tuesday, February 16 and 17, 1959, the sixth and seventh days of the work week. The claim for the difference between the pro rata

OPINION OF BOARD: Claimant occupied a position of printer clerk at Galveston, Texas, with assigned hours 11:30 P.M. to 7:30 A.M. His work week assigned was Wednesday through Sunday with Monday and Tuesday as his rest days. However, Claimant was notified on February 9, 1959 that effective February 16, 1959 the rest days of this position were changed from Monday and Tuesday to Saturday and Sunday.

Claimant commenced his work week on Wednesday, February 11, 1959 and worked ten consecutive days through February 20, 1959. He was paid at the pro rata rate for each of the days worked and now claims that he is entitled to the difference between the pro rata and time and one-half rates for work performed on Monday and Tuesday, February 16 and 17, 1959.

Claimant bases his contention upon Section 19-a which provides for overtime compensation for work in excess of 40 straight time hours or five days in any work week.

Carrier contends that it has the right to change Claimant's rest days and that Claimant's old work week ended on February 15, 1959. That the work performed on February 16 and 17 was regular work performed in the new work week ending on February 20, 1959 and therefore properly compensated.

We agree that the Carrier possesses the right to change rest days. However, this Board has repeatedly held that an employe cannot be required to work more than five consecutive days or forty hours without overtime compensation. See, for example, Awards 9962 and 11549.

The issue having been decided by numerous awards of this Board, the claim will be sustained.

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 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 Agreement has been violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

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