

Award No. 13278

Docket No. TE-11081

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Francis M. Reagan, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the St. Louis Southwestern Railway that:

1. (a) Carrier violated the agreement between the parties when it failed and refused to properly compensate D. B. Rolston, Agent-Telegrapher, Mt. Vernon, Texas, for holiday pay and vacation allowance on Thanksgiving Day, Thursday, November 28, 1957.

(b) Carrier shall compensate D. B. Rolston for Thursday, November 28, 1957 (less amount already paid) as follows:

8 hours at pro rata rate—Holiday pay;
8 hours at pro rata rate—Vacation allowance.

2. (a) Carrier violated the agreement between the parties when it failed and refused to properly compensate T. K. O'Neal, Cashier-Telegrapher, Pittsburg, Texas, for holiday pay and vacation allowance on Christmas, December 25, 1957.

(b) Carrier shall compensate T. K. O'Neal for Christmas, December 25, 1957 (less amount already paid) as follows:

8 hours at pro rata rate—Holiday pay;
8 hours at pro rata rate—Vacation allowance.

3. (a) Carrier violated the agreement between the parties when it failed and refused to properly compensate L. E. Mayo, Agent, Blytheville, Arkansas, for holiday pay and vacation allowance on Thanksgiving Day, Thursday, November 28, 1957.

(b) Carrier shall compensate L. E. Mayo for Thursday, November 28, 1957 (less amount already paid) as follows:

8 hours at pro rata rate—Holiday pay;
8 hours at time and one-half rate—Vacation allowance.

4. (a) Carrier violated the agreement between the parties when it failed and refused to properly compensate John Knowles, Clerk-Telegrapher, Dallas, Texas, for holiday pay and vacation allowance on Labor Day, Monday, September 1, 1958.

(b) Carrier shall compensate John Knowles for Monday, September 1, 1958 (less amount already paid) as follows:

8 hours at pro rata rate—Holiday pay;

8 hours at time and one-half rate—Vacation allowance.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

The claims here presented all involve the amount of compensation due an employee who receives a vacation during a period in which a holiday occurs. The applicable rules will be found in the National Vacation Agreement, dated December 17, 1941, and amendments thereto, and Article II of the August 21, 1954 Agreement. Article I of the August 21, 1954 Agreement contains the pertinent amendments to the Vacation Agreement. These rules will be referred to further along in this submission.

CLAIM NO. 1: D. B. Rolston, regularly assigned Agent-Telegrapher at Mt. Vernon, Texas, with a work week starting on Monday, assigned rest days Saturday and Sunday was scheduled to start his vacation of ten working days on Tuesday, November 19, 1957. The position of Agent-Telegrapher at Mt. Vernon is not filled on rest days and holidays. Rolston was on vacation on November 19, 20, 21, 22, 25, 26, 27, 28, 29 and December 2. Thursday, November 28 was Thanksgiving Day. For this period of time he was paid eight hours' pro rata on each date, the pay for November 19, 20, 21, 22, 25, 26, 27, 29 and December 2 was for vacation allowance and the pay for November 28, (Thanksgiving Day) was holiday pay provided for in Article II of the August 21, 1954 Agreement. He received no pay for November 28 as vacation allowance.

CLAIM NO. 2: T. K. O'Neal, regularly assigned Cashier-Telegrapher at Pittsburg, Texas, with a work week starting on Tuesday, assigned rest days Sunday and Monday, was scheduled to start his vacation of ten working days on Tuesday, December 17, 1957. The position of Cashier-Telegrapher at Pittsburg is filled by a regular relief employee on the Sunday and Monday rest days but not filled on holidays. O'Neal was not relieved for vacation as scheduled, he was required to work December 17 through 21 for which he was paid at the time and one-half rate for working during vacation period in addition to five days' pay at the pro rata rate as vacation allowance. This dispute is not concerned with this part of his vacation period. He was relieved for the second week of his vacation on December 24, 25, 26, 27, 28. For this period of time he was paid eight hours' pro rata on each date, the pay for December 24, 26, 27 and 28 was for vacation allowance and the pay for December 25 (Christmas) was holiday pay provided for in Article II of the August 21, 1954 Agreement. He received no pay for December 25 as vacation allowance.

CLAIM NO. 3: L. E. Mayo, regularly assigned Agent at Blytheville, Arkansas with a work week starting on Monday, assigned rest

Thus the issues here involved have been before both the NRAB and Special Boards of Adjustment, and the awards plainly show there is no basis for claims such as made here.

Carrier respectfully requests that the claims be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts presented in these four claims present the classic examples in the numerous questions that have been presented to this Board for interpretation of the Vacation Agreement of December 17, 1941 and Agreement and Memorandum dated August 21, 1954 and Letter of Understanding dated August 31, 1954.

Claims 1 and 2 involve requests for additional pro-rata compensation of 8 hours each on the part of D. B. Rolston, Agent-Telegrapher, Mt. Vernon, Texas for Thanksgiving Day, Thursday, November 28, 1957, a day occurring within Agent-Telegrapher Rolston's vacation period and on the part of T. K. O'Neal, Cashier-Telegrapher, Pittsburg, Texas for Christmas, December 25, 1957, a day occurring within Cashier-Telegrapher O'Neal's vacation period.

The position of Agent-Telegrapher at Mt. Vernon is not filled on rest days and holidays. The position of Cashier-Telegrapher at Pittsburg is filled by a regular relief employe on the Sunday and Monday rest days but not filled on Holidays.

Neither holiday mentioned would have been a workday for Claimants 1 or 2.

Claims 3 and 4 involve requests for additional compensation of 8 hours each at time and one-half rate on the part of L. E. Mayo, Agent, Blytheville, Arkansas for Thanksgiving Day, Thursday, November 28, 1957 a day occurring within Agent Mayo's vacation period and on the part of John Knowles, Clerk-Telegrapher, Dallas, Texas for Labor Day, Monday, September 1, 1958, a day occurring within Clerk-Telegrapher Knowles' vacation period.

The position of Agent at Blytheville is filled by a relief employe on the Saturday rest day, not filled on the Sunday rest day and filled on holidays. The position of Clerk-Telegrapher at Dallas is filled on the Wednesday and Thursday rest days by a regular relief employe and is filled on holidays.

Both holidays mentioned would have been workdays for Claimants 3 and 4.

A vacationing employe is entitled to receive for a holiday falling within his vacation period just what he would have received had he worked if (1) the position regularly works on the day on which the holiday falls; (2) the position has always been filled on the holiday; (3) the position was filled on the particular holiday for which claim is made. Conform Awards No. 11976 (Kane) 11827 (Stark) 11113 (Sheridan) and others.

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 has been violated in part.

AWARD

Claims 1 and 2 denied.

Claims 3 and 4 allowed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of February, 1965.