

Award No. 13661
Docket No. TE-13713

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Daniel Kornblum, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly 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 Mrs. R. T. Willis to work Third Trick, 11:30 P.M. to 7:30 A.M., November 7 and 8, 1960 at Manassas, Virginia and compensated her for working these two days at the pro-rata rate of pay instead of time and one-half rate of pay.

2. That Mrs. R. T. Willis be compensated by payment for these two days, November 7 and 8, 1960, at time and one-half rate of pay, less allowance already paid for these dates.

EMPLOYEES' STATEMENT OF FACTS: Claimant, Mrs. R. T. Willis is regularly assigned to the position of Clerk-Telegrapher at Manassas, Virginia, with assigned hours of 11:30 P.M. to 7:30 A.M. She had an assigned work week beginning on Wednesday through Tuesday, with Monday and Tuesday as assigned rest days. The Carrier, by notice effective November 4, 1960, a Friday, directed that the new assigned work week of the position would begin on Friday with assigned rest days of Wednesday and Thursday.

In her assigned work week beginning on Wednesday, November 2, 1960, Claimant worked Wednesday, the 2nd, Thursday, the 3rd, Friday, the 4th, Saturday, the 5th, and Sunday, the 6th. Claimant was also required to work November 7th and 8th, Monday and Tuesday, and was paid eight hours pro rata time. Claim was made for the difference in pay between eight hours at pro rata time and eight hours at time and one-half which she was entitled to under the Agreement for the work on Monday, November 7th, and Tuesday, November 8th, the assigned rest days of her work week which began on November 2, 1960.

The claim was appealed to the highest officer designated by the Carrier and declined by him.

POSITION OF EMPLOYEES: The issue in this dispute is a question of whether the Carrier can designate two new rest days and thereafter require

The evidence of record does not support petitioner's contention that the agreement was violated, nor does it support the claim for penalty pay. For the reasons set forth herein, the claim should be denied in its entirety, and carrier respectfully requests that the Board so decide.

OPINION OF BOARD: This claim presents the same basic issue in concept and principle as was raised and decided today in Award 13660. Except that in this case claim is made for overtime pay resulting from the transitional change in rest days (See e.g., Awards 8077, 8088, 9243, 9548, 10497, 10530, 11036, 11991, 11992, 12319, 12799, 12911, 13113, among many others), the same basic rationale as set forth in the opinion in Award 13660 applies equally here. The claim is accordingly sustained.

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 Employee involved in this dispute are respectively Carrier and Employee 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

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1965.