

Award No. 13936
Docket No. TE-14939

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly 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. Carrier violated the Agreement between the parties when it failed and refused to compensate B. S. Henson, clerk-telegrapher, Tyler, Texas, for January 31, 1963.
2. Carrier shall be required to compensate B. S. Henson in the amount of eight hours' pay at the rate of his position.

EMPLOYEES' STATEMENT OF FACTS: At the time cause for this claim arose, Claimant B. S. Henson was regularly assigned to the third shift clerk-telegrapher position at "QN" Tyler, Texas. Assigned hours 11:55 P.M. to 7:55 A.M., work week beginning on Fridays, assigned rest days Wednesdays and Thursdays, Wednesday rest day relieved by regular rest day relief position and the Thursday rest day a so-called "tag end" rest day filled from the extra board. The position is filled seven days per week.

On January 30, 1963, there was no extra telegrapher available to relieve Claimant Henson on the Thursday rest day, January 31, 1963 and he was instructed by the Chief Dispatcher to work his Thursday rest day. He showed up for work at 11:55 P.M., January 31, as instructed. He was then given a message that extra telegrapher S. G. Carothers would protect the position on January 31 and he was not permitted to work.

Claim was filed and handled in the usual manner up to and including the highest designated officer of the Carrier and has been declined. Correspondence reflecting this handling on the property is attached hereto as ORT Exhibits 1 through 11.

POSITION OF EMPLOYEES: Claimant, having been assigned to fill the third trick clerk-telegrapher position at Tyler, and not being notified that he was relieved prior to reporting for duty, is entitled to be paid the same as if he had filled the position.

therefore, Mr. Hendrix did not receive the information that he was not to work until he reported at 7:55 A.M. January 17, and he was at that time shown copy of the telegram which was addressed to him.

Telegrapher Hendrix filed claim for 8 hours' pay at pro rata rate. The claim was allowed under the circumstances in that case.

They also cite claim of extra Telegrapher A. Hutcheson, who was allowed 8 hours at pro rata rate account reporting for work at 11:00 P.M., February 11, 1958 as Relief Clerk-Telegrapher at East St. Louis, Illinois, and finding regularly assigned employee there to protect the job. This claim was paid without prejudice to the rules or position of either party, as shown by Exhibit No. 15.

In the instant claim Carrier did attempt to contact claimant, and was unable to do so. The circumstances are obviously quite different from those in the cases the Employees cited.

II.

Carrier respectfully submits that the claim is without merit, and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Except for a decisively distinguishing feature, this case is similar to that in Award 13935, the difference being that the Carrier did not succeed in notifying Claimant of the availability of an extra employee until he reported for work. Under these circumstances, this 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 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

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of October 1965.