

Award No. 14433
Docket No. TE-11287

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

G. Dan Rambo, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Erie Railroad, that:

1. The Carrier violated the parties' Agreement when it used Anthony P. Troccia, an employe not covered by said Agreement, to fill the Agent-Operator's position at Wellsburg, N. Y., during his vacation period July 15 through August 2, 1957.

2. The Carrier shall, because of the violation set forth above, compensate the following named regularly assigned Operators, idle on their respective rest days, as indicated:

F. J. Jackson, for each Monday commencing July 15, 1957.

N. L. Woodmansee, for each Tuesday and Wednesday, July 16 and 17.

R. E. Mathews, for each Thursday and Friday, July 18 and 19.

And for each Monday, Tuesday, Wednesday, Thursday, and Friday in the order set out above, during said vacation period, a day's pay at the pro rata rate of the Agent-Operator's position at Wellsburg, N. Y., as a penalty for the violation.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective March 1, 1957, and as amended.

D. A. Hoff, as the regularly assigned Agent-Operator at Wellsburg, N. Y., was, pursuant to the provisions of the National Vacation Agreement of December 17, 1941, as amended, granted a vacation from July 15 through August 2, 1957. The Carrier, in order to fill the vacancy on Mr. Hoff's position during his

but resigned on July 15, 1957 to accept a position of Police Officer with the City of Elmira, New York.

There were no extra operators available to perform the vacation relief work and in order to not disturb the vacationer's plans for vacation, an extra Roster B employe was utilized to relieve the Agent-Operator at Wellsburg during his absence on vacation.

At no time during the period July 15 to August 2, 1957 did any regularly assigned employe within the scope of the telegraphers' agreement request the vacation work.

OPINION OF BOARD: This matter comes before this Board as companion to case Docket Number TE-11279 (Award 14432). The facts are identical thereto with one exception and the result must be the same.

Here Carrier used an employe not covered by the Telegraphers' Agreement to fill an Agent-Operator's position during his vacation. The only variance from TE-11279 (Award 14432) lies in the naming of other regularly assigned Operators covered by the subject Agreement as Claimants on their respective rest days during the period in question rather than the normal occupant of the position who was on vacation.

There can be no question that these Claimants have seniority under the Agreement or that they could have been called to fill the vacancy on their respective rest days.

It is the opinion of this Board that the Agreement was violated and the claim is sustained at the pro rata rate.

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 is sustained at the pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of May 1966.

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