

Award No. 15137
Docket No. TE-11953

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

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

HUDSON AND MANHATTAN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Hudson & Manhattan Railroad that:

1. Carrier violates and continues to violate the agreement between the parties when it suspends J. Jennings from work on work days of his regular assignment and requires him to perform service on his assigned rest days at the straight time rate.

2. Carrier shall be required to compensate J. Jennings in the amount of a day's pay (8 hours) at the rate of his regular assignment on each work day suspended beginning with Monday, August 25, 1958, and continuing thereafter until the violation is corrected; and, compensate him for eight hours at the time and one-half rate of the position occupied for each rest day on which he is required to perform service beginning with Wednesday, August 27, 1958, and continuing thereafter until the violation is corrected.

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

J. Jennings holds a regular assignment to a position of towerman under the Telegraphers' Agreement, with a work week beginning on Fridays and assigned rest days of Wednesdays and Thursdays.

On Monday, August 25; Tuesday, August 26, 1958, and on subsequent work days he was suspended from work on his regular assignment and not permitted to work. On Wednesday, August 27, 1958; on Thursday, August 28, 1958; and on subsequent rest days he was required to work and paid only at the straight time rate.

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

applicable. In any event the claim is not of a true continuing nature because the circumstances are not such that the dates involved are continually recurring.

OPINION OF BOARD: The facts and parties in this case, except the name of Claimant and the specific dates involved, are basically the same as those dealt with in our Award 15136. For the reasons stated there, we will deny the Claim here.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January 1967.