Award No. 15139
Docket No. TE-12150

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 and Manhattan Railroad that:

1. Carrier violates and continues to violate the Agreement between the parties when it requires J. Neville to suspend work during regular hours of his regular assigned position on November 16, 1958 and subsequent work days.

2. Carrier shall be required to compensate J. Neville in the amount of a day's pay (8 hours) at the rate of his regular position on November 16, 1958 and on each subsequent work day he is suspended.

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

Towerman J. Neville held a regular assignment to a position covered by the Telegraphers' Agreement, Relief Position No. 23, with a work-week beginning on Saturday and assigned rest days of Thursday and Friday. He had also acquired the status of acting train dispatcher under Article XXI of the Telegraphers' Agreement. He did not hold a regular assignment as a train dispatcher. Article XXI reads as follows:

"ARTICLE XXI.

SUPERVISORY OR OFFICIAL POSITIONS

(a) Employes promoted directly from positions covered by this agreement to official or supervisory positions, including train dispatchers, with the Company or to a position with The Order of Railroad Telegraphers will retain and accumulate seniority. Such employes who can no longer hold positions in the promoted class because of force reduction, or who are physically disqualified from such promoted positions may return to service covered by this Agreement and exercise seniority in accordance with Article XX(b); employes

The claimant has demanded that he receive a day's pay (8 hours), for each day (commencing November 16, 1958) he would have been employed had he been serving as a Towerman, but which constituted rest days on his Dispatcher tour.

By a letter dated November 25, 1958, Towerman Neville submitted a time claim based upon the situation detailed above. Carrier, by letter dated January 21, 1959, rejected Towerman Neville's claim on the ground that on the days he asserted he was suspended from his ORT assignment he was subject to Carrier's agreement with the ADTA. The General Chairman of the ORT by letter dated January 26, 1959 appealed the issue to Carrier's General Superintendent; the General Superintendent denied the claim by letter dated October 13, 1959.

The issue presently before the Board is whether a Towerman who has elected to be employed as an Acting Train Dispatcher is governed by Carrier's agreement with the ADTA, or is still governed pursuant to Carrier's agreement with ORT. The Board must also determine the Organization can present a claim of a continuing nature.

OPINION OF BOARD: We have dealt with the issue presented in this case in our Award 15136, between the same parties and involving basically the same issue. For the reasons given in that award, we will deny this Claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

Keenan Printing Co., Chicago, Ill. Printed in U.S.A.