

Award No. 15446
Docket No. TE-14281

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

NEW YORK CENTRAL RAILROAD
(Southern District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central Railroad (CCC&StL District), that:

1. Carrier violated the Agreement between the parties when on February 22, 1962 a holiday, it failed or refused to call the regular assigned Assistant Agent-Operator Territory No. 13, to do station work at Robinson, Illinois, work assigned to her on her regular week day assignment.

2. Carrier shall now compensate Mrs. E. M. Caudle, the regular assigned Assistant Agent-Operator Territory No. 13, for one day (8) hours at time and half rate of \$4.14,4/10 per hour Total \$33.17 for February 22, 1962, timeslip has been presented to proper official.

3. Carrier shall also compensate the Agent service center Mt. Carmel, Illinois, Mr. R. E. Foust, for one day (8) hours at time and half rate of \$5.34,75/100 per hour Total \$42.78 for work and supervision improperly assigned to him to be performed on the holiday.

4. Carrier shall also compensate the senior idle employee extra in preference for one day (8) hours at time and half rate of \$4.14,6/10 per hour Total \$33.17 for work improperly assigned to the clerk at Mt. Carmel, Illinois, on the holiday February 22, 1962. The right is reserved to examine the Carrier's records to determine the senior idle employee extra in preference entitled to the day.

EMPLOYEES' STATEMENT OF FACTS: Robinson, Illinois freight agency, prior to May 16, 1961, was a five-day per week, Monday through Friday, agency with assigned hours of 6:00 A. M. to 3:00 P. M., one hour for lunch, and rest days Saturday and Sunday. On May 16, 1961, this position was unilaterally abolished and on the same day the Carrier established a position designated as Assistant Agent-Operator Territory No. 13. As part of Territory No. 13 the traveling agent was assigned to perform service at this station between 11:18 A. M. until 12:18 P. M., Monday through Friday.

OPINION OF BOARD: Petitioner avers that billing was done in violation of the Agreement. Carrier answers that the billing was not done as alleged by Petitioner. Petitioner failed to satisfy its burden of proof that: (1) the billing was done as it alleged; and, (2) the Agreement was violated. We, therefore, are compelled to dismiss the Claim for failure of proof.

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 Claim must be dismissed for failure of proof.

AWARD

Claim dismissed.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1967.