

Award No. 15526  
Docket No. TE-14582

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Don Harr, Referee

**PARTIES TO DISPUTE:**

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

**MAINE CENTRAL RAILROAD COMPANY**

**PORTLAND TERMINAL COMPANY**

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

**CLAIM NO. 1**

Carrier violated the Agreement between the parties hereto when on May 12 and 13, 1963 it failed to properly compensate Mr. T. W. Benson for eight hours at time and one-half for May 12 and 13, his rest days.

Carrier shall be required to compensate Mr. T. W. Benson for eight hours at time and one-half for May 12 and 13, 1963, account spare man from Portland Division used when Mr. Benson was available to work his rest days. (Carrier's File TE-63-2.)

**CLAIM NO. 2**

Carrier violated the Agreement between the parties hereto when on May 14 and 15, 1963 it failed to properly compensate Mr. J. E. Pouliot, operator at Tower Two Rigby, for eight hours at time and one-half for May 14 and 15, 1963, his rest days.

Carrier shall be required to compensate Mr. J. E. Pouliot for eight hours at time and one-half for May 14 and 15, 1963, account spare man from Portland Division used when Mr. Pouliot was available to work his rest days. (Carrier's File TE-63-3.)

**CLAIM NO. 3**

Carrier violated the Agreement between the parties hereto when on May 16, 1963 it failed to properly compensate Mr. J. M. Weingaertner, third trick operator at Tower Two Rigby for eight hours at time and one-half for May 16, 1963, his rest day.

Carrier shall be required to compensate Mr. J. M. Weingaertner for eight hours at time and one-half for May 16, 1963, account spare man from Portland Division used when Mr. Weingaertner was available to work his rest day. (Carrier's File TE-63-4.)

**EMPLOYES' STATEMENT OF FACTS:** The three claims involved in this case were separately but simultaneously handled on the property. For the reason that the issue in dispute is the same in all three claims, they have been merged into this single submission.

There are three 7-day positions at Tower Two, Portland Terminal, which are shown at page 39, Schedule of Rates, of the parties' Agreement, reproduced below:

**"PORTLAND TERMINAL**

Location	Office	Position	Rate per Hour
Tower Two	SH	T 1st	\$1.69
Tower Two	SH	T 2nd	1.69
Tower Two	SH	T 3rd	1.69"

The work days and rest days of the three positions are shown in the chart below ("W" for work, and "RD" for rest day), which also shows the occupants of the three positions, who are the three Claimants in these claims:

**DAYS OF WEEK**

Position and Occupant	Sun	Mon	Tue	Wed	Thur	Fri	Sat	Assigned Hrs.
T-1st Benson	RD	RD	W	W	W	W	W	6 AM-2 PM
T-2nd Pouliot	W	W	RD	RD	W	W	W	2 PM-10 PM
T-3rd Weingaertner	W	W	W	W	RD	RD	W	10 PM-6 AM

Relief Position T-2 (designated as R. P. - T-2) is occupied by Mr. Powers and his assignment provides the relief for the three regular occupants of the above positions on their rest days, as follows:

Sun & Mon	T-1st	Benson
Tues & Wed	T-2nd	Pouliot
Thursday	T-3rd	Weingaertner

Another relief position, designated as R. P. - T-6, which works various locations during the week, is assigned to provide rest day relief on Friday for T-3rd, Weingaertner.

Mr. Powers, occupant of R. P. - T-2 position, went on vacation from May 12 to May 16, inclusive, 1963. Said dates covered Sunday, Monday, Tuesday, Wednesday and Thursday. During said period Carrier "borrowed" a spare/extra/employee, Mr. E. G. Clark, from the Portland Division (as dis-

tended to appeal the claim to the President of his Organization to handle to a conclusion.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The regularly assigned Operator of Relief Position RP-T-2, Tower Two Rigby Yard, Portland Terminal Company, was scheduled to take one week's vacation, May 12 through 16, 1963.

There were no qualified spare men on the Portland Terminal spare list to cover the vacant position. Carrier assigned a qualified Telegrapher from the Portland Division spare list to cover the vacant position. Each of the regularly assigned Towermen made a claim for eight hours' pay at the time and one-half rate for each day the spare Telegrapher from the Portland Division spare list worked their respective assigned rest days.

Spare employes and spare work are covered by Article 35 of the Agreement. Article 35 reads:

#### "SPARE EMPLOYES — SPARE WORK

(a) Sufficient spare employes will be supplied to meet all reasonable demands. A separate spare list will be maintained on each, the Portland Terminal, the Portland Division, and the Eastern Division. A newly hired employe will take his place on the spare list of the Division or Terminal where he is first employed, but if he bids for and is assigned to a regular position on another Division or Terminal and later reduced to the spare list, he will assume his place on that spare list.

In case of necessity, spare employes may be borrowed from and loaned to other Divisions and Terminal, but the spare employe entitled to the vacancy shall be placed thereon at the first opportunity.

(b) Spare work will be assigned to and performed by spare employes who will be called according to seniority standing on the roster, provided they are qualified and available and will complete the assignments except as otherwise provided in paragraph (a) or (c), or (d) of this Article, or when diverted therefrom in emergency cases; in the latter instances the provisions of Article 15 will apply.

Spare employes must accept calls for service in accordance with the foregoing paragraph, except in cases of illness or other legitimate reasons.

(c) A senior spare employe who for any reason is not afforded eight (8) hours' work in each twenty-four (24) hour period, except on his rest days, will be considered unemployed, and shall have the right, if qualified, to displace any junior spare employe holding an assignment.

(d) In no event can a spare employe claim or be assigned to spare work in excess of forty (40) hours in his work week if a

junior spare employe who has had less than forty (40) hours' work in his work week is available.

(e) Spare employes will receive the compensation of the positions to which assigned."

Although Article 35 sets out three separate spare lists, there was only one Seniority District on the entire system. The position of the Employes is not supported by the Rules of the agreement.

We will deny the 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 28th day of April 1967.