



Award No. 15832
Docket No. TE-14440

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

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

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Duluth, Missabe and Iron Range Railway, that:

1. Carrier violated the Agreement between the parties when it failed and refused to allow Extra Telegrapher H. T. Olson deadhead pay for March 23 and April 17, 1962.

2. Carrier shall be required to compensate H. T. Olson in the amount of four (4) hours' pay at the Embarrass, Minnesota agency rate.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective January 1, 1953, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

At time of claim, H. T. Olson was an extra employe and resided at Aurora, Minnesota. Carrier instructed Mr. Olson to relieve on the position of agent at Embarrass, Minnesota, commencing on March 23, 1962. This Mr. Olson did and worked on the position until released on April 17, 1962. This dispute arose when Carrier declined to allow Claimant Olson pay for deadheading to Embarrass from his home at Aurora on March 23, 1962, and from Embarrass to his home at Aurora on April 17, 1962. Pay for deadheading is provided in Article 19 of the Agreement.

Carrier's payroll accountant declined to allow the claim for pay for deadheading on the contention that Article 19 provides for pay for deadheading for only the actual time consumed in deadheading to and from headquarters, and that the only headquarters for an extra man is at Duluth, Minnesota, where the extra list is maintained.

Mr. Olson then revised his claim to claim pay for deadheading from and to Duluth, which apparently the Carrier desired that he do. However, Carrier's payroll accountant also declined to allow the claim as revised, contending that Agreement Rule 19 provides for payment of deadheading between headquarters only when actually performed, and that it is evident that deadheading was not performed.

OPINION OF BOARD: Initially, Carrier requests that this claim be dismissed because of Petitioner's failure to appeal the original disallowed claim within sixty (60) days from receipt of notice of such disallowance from Carrier as required by Article V(b) of the National Agreement of August 21, 1954.

The record reflects that Claimant filed a revised claim on May 26, 1962, which was timely under Article V(a) of the National Agreement of August 21, 1954. Thereafter, the revised claim was declined by Carrier in a letter dated May 29, 1962, which Claimant contends he did not receive until June 18, 1962. An appeal was filed by Petitioner's General Chairman on August 7, 1962, which appears to encompass both the original claim of May 15, 1962 and the revised claim of May 26, 1962. In any event, said appeal seeks 4 hours dead-head time on behalf of the Claimant, the exact compensation sought by Claimant in his revised claim of May 26, 1962.

As the appeal from the revised claim was filed within sixty (60) days of the receipt of declination by Claimant from Carrier on June 18, 1962, we find said appeal timely under Article V(b) of the National Agreement of August 21, 1954.

As to the merits of this case, the parties agree that it is identical in all substantive respects to Award 15831. Accordingly, we adopt the opinion therein as determinative of the substantive issues in this dispute.

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 is denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1967.