



**Award No. 15985**

**Docket No. TE-14751**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Nicholas H. Zumas, Referee**

**PARTIES TO DISPUTE:**

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

**THE NEW YORK, NEW HAVEN AND HARTFORD  
RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the New York, New Haven and Hartford Railroad, that:

**CLAIM NO. 1**

The Carrier violated the Telegraphers' Agreement when it failed to properly compensate Signal Station Operator J. E. Gauvin, Jr., third shift, Westerly, Rhode Island, for work performed on his relief day, December 25, 1962, which was also a holiday (Christmas Day) according to the Agreement.

Carrier shall now compensate Mr. Joseph E. Gauvin, Jr., the incumbent permanent owner of the position, for eight hours at time and one-half rate of the position in addition to the amount already received. The hourly rate at Westerly being \$2.6568 per hour. (Carrier's File — Railroad Docket 9443.)

**CLAIM NO. 2**

Carrier further violated the said Agreement when on December 25, 1962 (a holiday) it required Mr. R. B. Dionne, regularly assigned operator, second shift (east end), Promenade Street Tower, to perform service on a rest day of his position in absence of available extra employees (when an assigned extra employee reported off duty while covering Relief 17), and failed to compensate Mr. Dionne in accordance with the terms of the Agreement.

Carrier shall now compensate Mr. R. B. Dionne, regularly assigned occupant (incumbent) of the second shift position, Promenade Street Tower, eight (8) hours at the rate of the position on time and one-half basis for work on his rest day (relief day), in addition to that which he has already been paid. Pro rata rate of the position is \$2.6568 per hour. (Carrier's File — Railroad Docket 9443.)

### CLAIM NO. 3

The Telegraphers' Agreement was violated when Mr. J. Conboy, regularly assigned employe at Signal Station 38, Stamford, was improperly compensated for service performed on January 1, 1963, a holiday and a rest day of his regular assignment, and is due eight hours (one day) at time and one-half at the rate of the position occupied on the holiday and rest day of his position.

Mr. J. Conboy shall now be paid an additional eight (8) hours at time and one-half for service performed on January 1, 1963. (Carrier's File — Railroad Docket 9473.)

### CLAIM NO. 4

The Telegraphers' Agreement was violated when Mr. B. Benson, regularly assigned signal operator, Signal Station 44, South Norwalk, was improperly compensated for service performed on January 1, 1963, a holiday and rest day of his regular assignment, and is due the equivalent of eight hours (one day) at time and one-half rate at the rate of the position occupied on the holiday and rest day of his position.

Mr. B. Benson shall now be paid an additional eight hours at time and one-half rate for service performed January 1, 1963, at the applicable rate of the position. (Carrier's File — Railroad Docket 9447.)

**EMPLOYEES' STATEMENT OF FACTS:** The parties are in accord as to the facts involved in the assignment of employes made in the herein claims. There is but a single issue to be decided by this appeal, which is the question of whether the claimant employes who were required to work on their rest days, which were also holidays, are entitled to payment for services rendered under only one of the two rules involved or both.

The rules involved are quoted below:

#### "ARTICLE 4.

\* \* \* \* \*

#### Section B — Holidays — Pay For.

Time worked within the hours of the regular week day assignment on the following holidays; namely, New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas (provided when any of the above holidays falls on Sunday, the day observed by the State, Nation, or by proclamation shall be considered the holiday), shall be paid on the following bases:

On seven-day positions:

At the rate of time and one half with a minimum of (8) hours.

On Five and six-day positions:

Attached as Carrier's Exhibit C is copy of General Chairman Marr's appeal to the undersigned covering Claim No. 3.

Attached as Carrier's Exhibit D is copy of General Chairman Marr's appeal to the undersigned covering Claim No. 4.

Attached as Carrier's Exhibit E is Carrier's decision covering Claims Nos. 3 and 4 (Carrier's Dockets 9473 and 9447).

A copy of the agreement between the parties dated September 1, 1949, as amended, is on file with your Board and is by reference made a part of this submission.

(Exhibits not reproduced.)

**OPINION OF BOARD:** This Board has been called upon once again to rule on the question of whether a Claimant is entitled to compensation for both a rest day and a holiday where they occur on the same day.

This Board is committed to follow a growing number of precedents which have consistently held that the Carrier has an obligation to make two separate payments for such service where there are two separate rules and no qualifying exceptions. See Awards 10541, 10679, 11454, 11899, 12453, 12471, 14138, 14489, 14528, 14977, 14978, 15000, 15052, 15144, 15226, 15340, 15361, 15362, 15376, 15440, 15450, 15527, 15528, 15531, 15553, 15660, 15661, 15754, 15764, and 15800 among others.

The Board will follow the prior awards and hold that the Agreement was violated.

**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 violated.

#### **AWARD**

Claim is sustained.

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

**ATTEST:** S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1967.

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