

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

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

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Seaboard Air Line Railroad, that:

1. Carrier violated the terms of an Agreement between the parties hereto when it failed to properly compensate R. L. Brock at the time and one-half rate for service performed on the car distributor-operator's position, Savannah, Georgia, October 26 and 27, November 2, 3, 23 and 24, 1963.

2. Carrier shall, because of the violation set out in paragraph 1 hereof, compensate R. L. Brock for the difference between the straight time rate paid him and the time and one-half rate due for eight (8) hours' service for each of the dates set out in paragraph 1.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the Seaboard Air Line Railroad Company, hereinafter referred to as Carrier, and its employes represented by The Order of Railroad Telegraphers, hereinafter referred to as Employes and/or Organization, effective January 1, 1959, and as amended. Copies of said Agreements are available to your Board and are, by this reference, made a part hereof.

The Wage Scale of said Agreement, at page 112, lists two (2) current Distributor-Operator positions at Savannah, Georgia. One is a seven (7) day position (Rule 12, Section 1 (d)); and the other is a five (5) day position.

W. L. Smith, Jr. is the regular occupant of the seven day position, work week Monday through Friday, rest days Saturday and Sunday. The rest days of the position are included in a regular rest day relief assignment, the occupant of which is not identified in the record. Both Mr. Smith, Jr. and the regular occupant of the rest day relief assignment, in addition to being car distributor-operators, are also extra train dispatchers. The regular occupant of the second car distributor-operator position is likewise not identified in the record. However, this is not material.

relieve the assigned rest day relief employe on Saturday and Sunday. Then, upon being relieved from this assignment, he once more returned to the extra board and was again used to relieve Smith on Monday. In each instance, he assumed the conditions of an assignment on being sent to the assignment from the extra board and relinquished the conditions of such assignment on being relieved from the assignment and returning to the extra board.

I have tried to make clear the consistent position the Carrier has taken with regard to interpretation of Rule 12, Section 1(h) by going into some detail here."

OPINION OF BOARD: W. L. Smith, Jr. is the regular occupant of the seven day position, work week Monday through Friday, rest days Saturday and Sunday; the rest days of the position are included in a regular rest day relief assignment. Claimant was assigned to fill the vacancy on the position on Friday, October 25, 1963, on Friday, November 1, 1963, and on Friday, November 22, 1963; on each occasion, because of the absence of the regular relief man on the succeeding Saturday and Sunday, and of the regular incumbent on the following Monday, he also worked the position on Saturday, Sunday and Monday; thus he worked the position Friday, October 25 through Monday, October 28, and Friday, November 1 through Monday, November 4, and Friday, November 22 through Monday, November 25. Carrier paid him for work on the Saturdays and Sundays in question at pro rata rate; Employees claim that he should have been paid at the time-and-one-half rate pursuant to the provisions of Rule 12, Section 1 (h) and Addendum 1.

Addendum 1 is a letter reciting an agreed interpretation of Rule 12, Section 1 (h), and, in spite of Carrier's argument that it is not in point, we find that its Example No. 2 is in point in this case; it reads:

"Extra operator Doe is used to fill a vacancy on Smith's position with Saturday and Sunday rest days of that assignment. Doe is instructed to protect Smith's position Friday and Monday. The rest days are included in a relief swing position, and the swing relief operator reports unable for duty. There being no available extra operator, Doe is required to work Saturday and Sunday, so Doe works the position Friday, Saturday, Sunday and Monday, Smith resuming duty Tuesday.

Doe takes the conditions of Smith's position, starting Friday, and the rate of pay would be at the time and one-half rate for work performed by Doe on Saturday and Sunday."

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 Carrier violated the Agreement.

AWARD

Claim allowed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of December 1967.