



Award No. 16366

Docket No. TE-15375

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, 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 and intent of the Telegraphers' Agreement in refusing and failing to properly compensate W. R. Mathis for services performed February 22, 1964, a holiday, which was also one of the assigned rest days.

2. Carrier shall now compensate Claimant Mathis for eight hours at the time and one-half rate in addition to the amount already received.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective January 1, 1959, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Claimant Mathis occupied a 7-day position classified as Operator at Montgomery (Clisby Park), Alabama. His work week begins on Monday and his assigned rest days are Saturday and Sunday.

The Saturday and Sunday rest days of Claimant Mathis are not part of any relief assignment. The rest days are filled by extra employees when available and qualified. For reasons irrelevant for purposes of this appeal, no extra employee was available; therefore, Claimant Mathis was properly required to work his rest day.

Saturday, February 22, 1964, was a rest day of Mathis' position and a holiday as well. Claimant was paid eight hours at time and one-half rate for the rest day service. He submitted a time card for the additional eight hours at time and one-half rate due him for work under the holiday service rule, which was declined by Superintendent Hester, April 3, 1964, whereupon formal appeal was filed by the General Chairman, copy of which is attached hereto as ORT Exhibit 5.

Copies of other correspondence exchanged between the parties on the property are attached hereto as ORT Exhibits Nos. 1 through 7.

A review of the attached exhibits will disclose that this dispute has been handled in accordance with the requirements of the Railway Labor Act and the rules of procedure of your Board, but failed of settlement.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: There is a duly negotiated agreement in effect between the parties to this dispute, The Order of Railroad Telegraphers, hereinafter known as the Petitioner, and the Seaboard Air Line Railroad Company, hereinafter known as the Carrier. That agreement is on file with your Board and by reference thereto is made a part of this submission.

The Claimant was a regularly assigned telegrapher at Montgomery, Alabama with rest days of Saturday and Sunday. On Saturday, February 22, 1964, it was necessary that Claimant work his assigned rest day due to unavailability of a qualified extra operator to relieve him. This date was one of the seven specified holidays covered by Rule 12, Section 2(a). Claimant was paid for the eight hours worked at the time and one-half rate. He is claiming an additional eight hours' pay at the time and one-half rate.

OPINION OF BOARD: Claimant was a regularly assigned telegrapher at Montgomery, Alabama with rest days of Saturday and Sunday. On Saturday, February 22, 1964, Claimant was required to work his assigned rest day because of the non-availability of a qualified extra operator to relieve him. February 22nd is one of seven specified holidays covered by Rule 12, Section 2(a). Claimant was paid for eight hours worked at time and a half and is claiming an additional eight hours at the time and one-half rate.

This question has been presented to this Board for adjudication a considerable number of times, and a decision has been rendered in favor of the employees in over fifty such cases. We are therefore compelled in the interest of adhering to our well established principle of "Stare Decisis," to sustain the claim as presented.

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 by the Carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of June 1968.

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