



Award No. 16785
Docket No. TE-14779

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nicholas H. Zumas, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad (Gulf District), that:

1. Carrier violated the Agreement when, on the 22nd day of November, 1962, Thanksgiving Day, it required Night Chief-CTC-Telegrapher Jack Glass to perform duties on his assignment of 11 P. M.-7 A. M., on Rest Day, and compensated him under Rule 15, Section 1 (M) (V) for eight (8) hours' punitive rate but declined to compensate him an additional eight (8) hours in accordance with Rule 15, Section 2 (B) (2) for Holiday work.

2. Carrier shall compensate Telegrapher Jack Glass an additional eight (8) hours at the punitive rate of the Night Chief position for working the Holiday.

EMPLOYEES' STATEMENT OF FACTS: "H" Office, Palestine, Texas, is an office in the relay seniority district on the Gulf District of the Missouri Pacific Railroad. There are five negotiated positions in this office which are listed as follows:

"Manager-Wire Chief-Telegrapher, hours 7 A. M.-3 P. M., rest days Saturday and Sunday.

CTC-Telegrapher, hours 7 A. M.-3 P. M., rest days Saturday and Sunday.

Assistant Manager Wire Chief-CTC-Telegrapher, hours 3 P. M.-11 P. M., rest days Monday and Tuesday.

Night Chief-CTC-Telegrapher, hours 11 P. M.-7 A. M., rest days Wednesday and Thursday.

Swing-Manager-Assistant Manager-Night Chief-CTC-Telegrapher relieves Manager on Saturday and Sunday; Assistant Manager on Monday and Tuesday; Night Chief on Wednesday.

8. Claim was subsequently progressed through the channels on the property, and finally appealed to the Director of Labor Relations under date of February 18, 1963. Claim was declined by the Director of Labor Relations in a letter dated April 16, 1963, which is quoted below for the convenience of your Board:

"April 16, 1963
K 279-381

Mr. R. T. Phillips
General Chairman-ORT
P. O. Box 456
Palestine, Texas

Dear Sir:

Reference to your letter of February 18, 1963, file F-6-320, appealing from decision of General Manager D. J. Smith claim of Telegrapher Jack Glass, 'H' Office, Palestine, Texas, for eight hours at triple time account work performed on rest day which day was also Thanksgiving Day, one of the recognized holidays.

Although you are claiming sixteen hours at the punitive rate, only eight hours' overtime work was performed. This claim actually amounts to eight hours at a triple time rate for which there is no provision of the Telegraphers' Agreement to support such a contention. Rule 7(c), Overtime, provides that:

'There shall be no overtime on overtime; . . .'

In view of the foregoing, claim is without merit or rule support and is respectfully declined.

Yours truly,

/s/ B. W. Smith"

9. In progressing the instant claim on the property the General Chairman did not attempt to show the provision of the rules cited which support a claim for a double penalty in event service is performed on a rest day that is also a holiday, but rather contented himself with a citation of Award 10541.

(Exhibits not reproduced.)

OPINION OF BOARD: The question in this dispute has been resolved against Carrier many times before. See Awards 10541, 16127 and 16723. For reasons stated in those awards, we are compelled to find that the Agreement was violated and the Claim should be sustained.

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

The Claim is sustained.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of November, 1968.