

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
WESTERN RAILWAY OF ALABAMA**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Western Railway of Alabama, that:

1. Carrier violated the Agreement between the parties when D. W. McNeill, Agent-Telegrapher, Boylston, Alabama, was not compensated for work that was performed in excess of his regular tour of duty and assigned hours October 18, 19, 21, 22, 25, 26 and 27, 1965. A total of 14 hours and 15 minutes.

2. Carrier shall be required to compensate D. W. McNeill, Agent-Telegrapher, Boylston, Alabama for work performed on the dates of October 18, 19, 21, 22, 25, 26 and 27, 1965, a total of 14 hours and 15 minutes, at the overtime rate of pay of Agent-Telegrapher, Boylston, Alabama.

EMPLOYEES' STATEMENT OF FACTS: An Agreement between The Western Railway of Alabama and this Union, dated September 16, 1956, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

This claim was presented and progressed in accordance with the time limits provided by this Agreement up to and including appeal and conference with the highest officer designated by the Carrier to receive appeals. Having failed to reach a settlement, the Employees now appeal to your Honorable Board for adjudication. The handling on the property has been thorough, as evidenced by exact copies of the correspondence and documents exchanged on the property in an effort to settle this dispute attached to this submission as TCU Exhibits 1 through 18.

At the time this issue arose, the Claimant, D. W. McNeill, was the regularly assigned occupant of the position of Agent-Telegrapher at Boylston, Alabama, a five-day per week position, assigned hours 9:00 A.M. to 6:00 P.M., with one hour deducted for meal period. On Saturdays, he was regularly assigned to work a call, three (3) hours, between 9:00 A.M. and 12:00 Noon. Boylston is a one-man agency.

Boylston is an important station on this Carrier, the traffic consisting principally of outbound business, averaging about 25 carloads each working day, TCU Exhibit 3, page 2. Due to conditions prevalent throughout the in-

computing the 40 hours per week, nor shall time paid for in the nature of arbitraries or special allowances such as attending court, deadheading, travel time, etc., be utilized for this purpose, except when such payments apply during assigned working hours in lieu of pay for such hours, or where such time is now included under existing rules in computations leading to overtime.

(c) When notified or called to work outside of established hours, employees will be paid a minimum allowance of three hours, at the pro rata rate for two hours' work or less.

(d) Employees will not be required to suspend work during regular hours or to absorb overtime.

(e) Forms for reporting overtime will be furnished all offices by the railroad; overtime shall not be allowed unless overtime slips are mailed to the Chief Dispatcher within forty-eight hours after service has been performed. When overtime is not allowed, notice will be given within seven (7) days and reason given therefor."

If there is any doubt on the part of the Board with respect to the validity of Circular No. 73-63, Carrier points to its operating Rule 793 under Station Agents in its currently effective Operating Rule Book reading: "Station Agents will report to the General Superintendent and Assistant Superintendent."

Claim has been handled in accordance with the Railway Labor Act, amended, up to and including the highest officer on the property designated to receive same, and declined at each level. Necessary conferences were also held without settlement.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim in this case is for overtime worked on the dates specified in October of 1965, a total time being claimed of 14 hours and 15 minutes.

From a review of the record in this docket, there seems to be little doubt that the overtime work was in fact performed. The issue, however, is whether or not an employee can take it upon himself, without prior authorization from the appropriate Carrier official, to perform overtime work, and then demand compensation for same.

There is in the record a copy of Circular No. 73-63, dated June 12, 1963, addressed to all Agents and all General Yardmasters by the General Superintendent, entitled "Overtime", which reads as follows:

"We have outstanding instructions that authority for working overtime by Agents, operators and clerks must first be obtained from Trainmaster, T. P. King, or this office.

When overtime is authorized for Agent or operator, time ticket should be made in duplicate and copy sent to Mr. T. P. King, Atlanta, Georgia.

Please see that these instructions are complied with in all cases in the future."

It is admitted by the Organization that Claimant did not receive authorization for the overtime work, but simply proceeded to perform the work on his own volition. This action by Claimant was in clear violation of the above quoted Circular, all arguments propounded by Petitioner to the contrary notwithstanding; further, the overtime form itself provides a space showing by whom the excess service was authorized. These spaces are unfilled.

It is a managerial prerogative to determine when work is to be performed, as exemplified in many of our awards. To permit an employee to work overtime whenever he himself deems it necessary, is an unwarranted encroachment on Management, which, if unchecked, could only lead to chaos. We, therefore, find no violation, and will deny the claim.

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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1970.