

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Illinois Central Railroad, that:

1. Carrier violated the terms of an Agreement between the parties hereto when it failed to call A. M. Hughes, regular occupant of the 12 Noon-8 P.M. Operator's position Farmersville, Illinois, on Saturday, June 18, 1966, to perform work on his rest day, which he performs during the work week thereof.

2. Carrier shall, because of the violation set forth above, compensate A. M. Hughes for one "call" (2 hours at the time and one-half rate).

EMPLOYEES' STATEMENT OF FACTS: The claim in this case is based upon the provisions of an Agreement effective June 1, 1951, as amended and supplemented, which was made between the Illinois Central Railroad Company, hereinafter referred to as Carrier, and The Order of Railroad Telegraphers, now renamed the Transportation-Communication Employees Union, hereinafter referred to as Employees and/or Union. Copies of these agreements are on file with your Board and are, by this reference, made a part hereof.

The issue in this claim is the right of the regular occupant of a Noon-8:00 P.M. operator's position at Farmersville, Illinois, to perform work on Saturday, an unassigned rest day of this position, which he performs during the work week thereof.

The material and relevant facts are as follows: At page 118 of the Agreement, Wage Appendix, is listed the positions in effect at Farmersville, Illinois on the effective date of said Agreement. The listing, for ready reference, reads:

"Location	Position	Rate of Pay effective May 1, 1962
* * *		
Farmersville	A-O	538.64**
* * *	O	2.523

** - May be reverted to hourly rate on thirty (30) days' notice."

Saturday, a day of rest for Second Trick Operator, to copy Train Order No. 47 on date in question, after completion of his assigned hours.

This is to advise that your decision is unacceptable, and this case is being submitted for decision with respect to processing to the Adjustment Board.

Respectfully yours,

/s/ J. J. Novota
J. J. Novota,
General Chairman

cc: Mr. H. D. Smith, Vice President
3860 Lindell Boulevard
St. Louis, Missouri 63108

Mr. A. M. Hughes
300 West Chestnut
Gillespie, Illinois"

Conference pursuant to the pertinent provisions of the Railway Labor Act, amended, was had between the parties, but failed to dispose of the unadjusted dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The company employs an agent-operator and an operator at Farmersville, Illinois to perform the work covered by the agreement between the company and the Union. The agent-operator works from 5:30 A. M. to 1:30 P. M., six days per week, Monday through Saturday, and the operator works from 12 Noon to 8:00 P. M., five days per week, Monday through Friday.

On Saturday, June 18, 1966, the agent-operator was held to work overtime after completing his regular assignment at 1:30 P. M. in accordance with Rule 10(A) of the agreement. He was released from duty at 2:55 P. M., or, in order words, worked overtime from 1:30 P. M. to 2:55 P. M. Two train orders were copied during the overtime period — one at 1:41 P. M., and the other one at 2:43 P. M. — and this, quite frankly, was the purpose for the overtime work.

Saturday is not an assigned work day of the operator's position. The position, however, is assigned to work during the period the agent-operator worked overtime, and the Union contends, for that reason, that the operator — Mr. A. M. Hughes — should have been called for the overtime.

The agreement between the parties, effective June 1, 1951, as revised, is by reference made a part hereof.

OPINION OF BOARD: The Agent-Operator position is assigned Monday through Saturday with Sunday as assigned rest day. The assigned hours are from 5:30 A. M. to 1:30 P. M.

The Operator position, occupied by Claimant, is assigned to work Monday through Friday with hours from 12:00 Noon to 8:00 P. M.

On Saturday, June 18, 1966, train orders were required for a train, one order having been issued by the Train Dispatcher at 1:41 P. M., and the other at 2:43 P. M. The Agent-Operator was held on an overtime basis until 2:55 P. M. for the purpose of handling these orders.

The Claimant Operator contends that he should have been called to handle the train orders, based on the provisions of Rule 20(M), Work on Unassigned Days Rule, which reads as follows:

"Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employe who will otherwise not have forty (40) hours of work that week; in all other cases by the regular employe."

The Carrier takes the position that the work involved was not work on an unassigned day, but, rather, insofar as the Agent-Operator was concerned, constituted overtime performed by him on one of his regularly assigned workdays. Hence, we have Carrier on the one hand invoking the overtime rule, and the Organization invoking the Unassigned Day Rule.

Had these two train orders been issued Monday through Friday, there is no question that they would have been handled by the Claimant. Saturday, being his rest day and the train orders having been issued subsequent to the termination of the Agent-Operator's workday, we conclude that the applicable rule is the Unassigned Work Day Rule. In the absence of an available extra or unassigned employe not having forty hours of work that week, Claimant should have been called. We will sustain 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 violated.

AWARD

Claim sustained.

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.

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