

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION DIVISION, BRAC

CHICAGO & EASTERN ILLINOIS RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC on the Chicago and Eastern Illinois Railroad, that:

1. Carrier is violating the Agreement between the parties by allowing and/or requiring employees not covered thereby to use the telephone to transmit train information (OS Reports) each Sunday, a rest day of the operator assigned to that location, during the hours of his weekly assignment.

2. Carrier shall, as a result, compensate R. K. Bailey eight (8) hours' pay at the rate of his assignment for each Sunday, commencing March 31, 1968, for so long as violative practice continues.

EMPLOYEES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

The Agreement between the parties, effective May 1, 1945, as supplemented and amended, is on file with your Board and by this reference is made a part hereof.

The claim was timely presented, progressed, including conference with the highest officer designated by Carrier to receive appeals, and at all times remained declined. The Employees, therefore, appeal to your Honorable Board for adjudication.

The dispute arose when, on or about March 1, 1968, the Carrier reduced the operator-clerk position at Mitchell Yard, Illinois from a seven to a six day position and on the seventh or Sunday rest day of the position, within the daily hours of assignment, required either an assistant trainmaster, agent-yardmaster or a clerk to use the telephone to transmit train information or "OS" Reports (and abbreviation of "On Sheet" Reports).

As a result of the Carrier's action, separate claims were presented by the Employees to cover each Sunday occurrence, however, the parties later

the dispatching office is the same information that has been exchanged for more than thirty (30) years on this property by employees other than telegraphers. Evidence of this is shown in the attached Exhibit 7 wherein the Carrier advised the Organization of such facts in an identical claim and the Organization accepted this information and allowed the claim to expire under the time limit rule. Additional evidence that the Organization has accepted this fact as the governing past practice on this property is shown in Exhibits 8 and 8a again involving identical circumstances and again the claim expired under the time limit rule. Also, attached for the Board's information is correspondence identified as Exhibits 9, 10 and 11 between the parties on similar claims involving the same issue in which the Organization **withdrew** the claims.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant occupies a position of telegrapher at Mitchell Yard which has assigned rest days of Saturday and Sunday. Until shortly before this claim arose work on both rest days was performed in the usual manner by a rest day relief employee. On or about March 1, 1968, Sundays were eliminated from the relief schedule, and no one was assigned to work on Sundays. Thereafter, on such unassigned days officers and/or employees not covered by the telegraphers' agreement performed certain items of communication work that are performed other days of the week by the Claimant.

The resulting issue has been the subject of numerous awards of this Board, such as 6689, 14160, 14703, 15158, 15328 and 17436. We hold that such awards are controlling and require a sustaining award herein.

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 31st day of July 1970.

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