

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19539
Docket Number ~~TE~~-19382

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
((Formerly Transportation-Communication Division, BRAC)
(The Colorado and Southern Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Colorado & Southern Railway Company, TC-5815, that:

1. Carrier violated the Telegraphers' Agreement when it failed and refused to properly compensate Telegrapher J. W. Stewart for performing the duties of Supervisory Agent at Longmont, Colorado, during the period April 12, through May 9, 1970, while the regular incumbent of that position was on vacation.

2. Carrier shall now compensate Telegrapher J. W. Stewart the difference between what he has received for the period April 12 through May 9, 1970, and the amount he should have received at the rate paid the Supervisory Agent at Longmont, Colorado. (Amount claimed \$208.84).

OPINION OF BOARD: From April 12, 1970 through May 9, 1970, the Supervisory Agent at Longmont was off on vacation. Prior to departing on his vacation he prepared the following message to be transmitted to various Carrier officers: "First trick Operator J. W. Stewart (Claimant) will be in charge of Longmont Station during my vacation April 12, 1970 through May 9."

The Organization contends that during the period the Supervisory Agent was on vacation, Claimant, in addition to performing his regular duties, performed the duties normally handled by the Agent. However, since he was paid the Telegraphers' rate of pay rather than the Agent's higher rate of pay, claim was filed for the difference, Claimant contending that he was placed in charge of the station and should be compensated in accordance with Rule 12 of the Schedule Agreement and Article 10(a) of the National Vacation Agreement.

Claim was denied, Carrier maintaining that when the incumbent notified the accounting department that Claimant would be in charge of the station during his vacation he did not select him to fill the position of Supervisory Agent, nor did he have the authority to select him. Rather the purpose of his notice, according to Carrier, was to designate one of the two members of his station force to receive communications or inquiries from the accounting department if there should be any during his absence.

We are not persuaded by Carrier's argument. Claimant was put in charge of the Longmont office by the Supervisory Agent and he performed the duties of Agent during the incumbent's vacation. When he was placed in charge, he was in charge for all purposes and not merely for the reasons claimed by the Carrier. Since Claimant was designated to fill the Supervisory Agent's assignment at Longmont and since he did, in fact, perform the duties thereof, he is entitled to the Agent's higher rate of pay in accordance with Article 10(a) of the Vacation Agreement.

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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E A Kellum
Executive Secretary

Dated at Chicago, Illinois, this 20th day of December 1972.