

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20149
Docket Number TE-20025

Irving T. Bergman, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station Employees (formerly **Transportation-**
(**Communication Employees Union**)

PARTIES TO DISPUTE: (

(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, T-C 5865, that:

1. Carrier violated the Telegraphers' Agreement July 2, 1971 at Cheyenne, Wyoming when it failed to notify Telegrapher W. M. Garcia he was being relieved of his assignment. Mr. Garcia reported for work as previously instructed and was **not** used.
2. Carrier shall now compensate Telegrapher W. M. Garcia 8 hours, at straight time rate, as previously claimed.

OPINION OF BOARD: Telegrapher Garcia was temporarily filling a third trick vacancy, hours 12 midnight to 8:00 A.M. The position was bulletined and awarded on June 29, to an **employee** who was senior to Garcia. On July 2, Garcia left at 8:00 A.M. as usual, to return at midnight as scheduled. A message was received at the work location at 12:16 P.M. advising that Garcia was relieved on the third trick by the senior **employee** and that Garcia was scheduled to work the next morning July 3, at 8:00 A.M. Carrier's was unable to reach Garcia to notify him of the change so that he arrived at midnight to report for work.

Rule 4(a) provided, so far as it relates to **this** situation, that : "--, and extra **employees** filling temporarily a regular assignment, will receive one day's pay within each twenty-four (24) hours, --, if ready for service and not used,--."

The facts establish that Garcia was ready for work at 12 **midnight** but was not used. He next worked at 8:00 A.M. on July 3, twenty-four hours after his last time worked. The Carrier had time to notify Garcia between June 29, when the position was awarded to a different **employee**, and July 2, at 8:00 A.M. when Garcia left work. There is no explanation for the delay. Garcia was entitled to know when he left work that his reporting time had been changed.

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

The Carrier violated the Agreement.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this **28th** day of February 1974.