

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21944  
Docket Number CL-21863

Don Hamilton, Referee

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( **Express** and Station **Employees**  
**PARTIES TO DISPUTE:** (   
(The Baltimore and **Ohio Railroad** Company

**STATEMENT a CLAIM:** Claim of the System Committee of the Brotherhood,  
GL-8230, that

1. Carrier violated the Agreement between the parties on July 4, 1973 (Independence Day), when it failed to allow incumbent of 2nd trick Operator position at WJ Tower, Wilsmere, Delaware, to **work, and diverted** the work of the position to the 2nd trick Operator position at BA Tower, Baltimore, Maryland.

2. Carrier shall, as a result, compensate **Mr. M. D. Harryman**, incumbent of 2nd trick Operator position at WJ Tower, **Wilsmere**, Delaware, eight (8) hours' pay at overtime rate for July 4, 1973.

**OPINION OF BOARD:** The Claimant **was** the **regularly** assigned Operator on the 3:00 p.m. to 11:00 p.m. shift at WJ Tower, and was "laid in" on the July 4, 1973 holiday.

The crew of a freight train approaching Wilsmere Yard contacted the Operator at BA Tower at 3:01 p.m. July 4, 1973, for information from the Train Dispatcher relative to yarding a train at Wilsmere Yard.

The **Train** Dispatcher gave instructions to the crew of the freight train, which were relayed by the Operator at BA Tower.

The Claimant urges that he would have received the **call** from the freight crew and would have relayed the instructions of the Train Dispatcher if he *had not been* "laid in" because of the holiday.

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Under the particular facts presented in this case, the claim should be allowed.

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: A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March 1978.

