

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
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(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10387) that:

1. Carrier violated the effective agreement when it failed to call Ms. Joyce Sipialis on June 25, 1988, a day which was not a part of any assignment, for work which she regularly performs as a part of her assignment.

2. Carrier shall now compensate Ms. Sipialis eight (8) hours' pay at the time and one-half rate of her position for the above referred to date."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The significant events leading to this dispute arose on Saturday, June 25, 1988. On that date, the Carrier called an employee to do certain clerical work associated with journal entries. The Organization essentially asserts that the work performed on June 25, 1988, was work which was regularly performed by the Claimant during her regular workweek. Therefore, it contends that the Carrier violated Rule 38 Work Week, paragraph (j) -- Work on Unassigned Days which reads:

"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 employee who will otherwise not have forty (40) hours of work that week, in all other cases by the regular employee."

The Board agrees with the Organization. There is no showing that the Carrier attempted to call the Claimant for the clerical work.

The Rule at issue here involves the same parties, and under similar or clearly related factual circumstances, as cases which have been adjudicated on numerous occasions in the past. Earlier Awards, when examining the same key issues as here, have held that the "regular employee" who performs the claimed work during the normal workweek is entitled to the work.

In view of all of the foregoing, the Claim is sustained on the merits. With respect to the Claim for the punitive rate of pay, we reaffirm the holdings of past Awards that have found that the appropriate rate of compensation for work not performed is the pro rata straight time rate.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1991.