

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
BOSTON AND MAINE RAILROAD

STATEMENT OF CLAIM.—

"Claim of the General Committee of the Order of Railroad Telegraphers on the Boston and Maine Railroad that the Management of the Boston and Maine have no right to work C. F. Hanlon, second-trick operator at Williamstown, Mass., eight consecutive hours on week days, and force him to work eight hours in nine on Sundays without payment of overtime for the ninth hour.

"Overtime is claimed at the rate of .99½¢ per hour, for one hour for each Sunday dating back to April 26, 1936, the time the change was made."

STATEMENT OF FACTS.—At Williamstown, Mass., previous to April 26, 1936, the following hours were worked:

Clerk & Operator	1st trick	6:45 a. m. to 2:45 p. m. Weekdays No meal hour Sundays—7:50 a. m. to 9:50 a. m.
"	2nd trick	12:00 noon to 8 p. m. Weekdays No meal hour Sundays—12:00 noon to 8:00 p. m.

Commencing April 26, 1936 the following hours were worked:

Clerk & Operator	1st trick	5:45 a. m. to 1:45 p. m. Weekdays No meal hour Sundays—6:50 a. m. to 8:50 a. m.
"	2nd trick	12:15 p. m. to 8:15 p. m. Weekdays 11:30 a. m. to 9:30 p. m. Sundays Meal hour 5:00 p. m. to 6:00 p. m.

POSITION OF EMPLOYEES.—The employes contend that two shifts are worked at Williamstown each Sunday and Interpretation No. 1 to Decision No. 757 Railroad Labor Board states a shift is a tour of duty constituting a day's work. Two hours service on the first trick constitutes a day's work for that employe on Sundays. Rule 3 (a) of the Telegraphers' Agreement dated March 18, 1927 reads as follows:

"Except as specified in Rule 6, eight consecutive hours, exclusive of the meal hour, shall constitute a day's work, except where two or more shifts are worked eight consecutive hours, with no allowance for meals, shall constitute a day's work."

The employes contend that the first part of Rule 3 (a) applies to one man positions or to stations where there is only one telegrapher. The last part of Rule 3 (a) employes contend applies to where two employes of the same class are worked and whatever hours are assigned to them by proper authority constitutes their day's work and they are paid accordingly for it. Prior to April 26, 1936, the employes contend that the employer recognized two shifts but thereafter claimed only one shift being worked on Sunday.

POSITION OF CARRIER.—The carrier contends that only one shift is worked on Sunday and therefore that it is proper for an employe to work eight hours out of nine hours under Rule 8 with sixty minutes for meal.

Rule 8 specifies:

"Where but one shift is worked employees will be allowed sixty consecutive minutes between 11:30 and 1:30 * * * for meal."

Note Rule 3 (a) provides definition of phrase, "two or more shifts" is understood to be that shown in Interpretation No. 1 to Decision 757 Railroad Labor Board.

Interpretation No. 1 to Decision No. 757 reads:

"Q. What is the intent of the phrase 'two or more shifts' as used in Rule 2?"

"A. A shift is a tour of duty constituting a day's work for one or more employees performing the same class of work covered by the Telegraphers' Schedule at the same station who begin and quit work at the same time."

As a shift is a tour of duty constituting a day's work and as Rule 3 (a) quoted above provides eight hours shall constitute a day's work the carrier contends that only the second trick clerk operator works a shift on Sunday.

OPINION OF BOARD.—Under Rule 3 (a) and Rule 8 of the Agreement, provision is made for assignment of a meal hour only at the offices where but one shift is worked during the twenty-four hour period by employees performing the same class of work. At Williamstown, Mass., there were regularly assigned two shifts of clerk-operator, first shift being regularly assigned 5:45 a. m. to 1:45 p. m. weekdays, 6:50 a. m. to 8:50 a. m. Sundays, second shift being regularly assigned at 12:15 p. m. to 8:15 p. m. weekdays, 11:30 a. m. to 8:30 p. m. Sundays. Under provisions of Rule 10 carrier is permitted to work an employee on his regularly assigned shift on Sundays a less number of hours than it may on weekdays. Under this rule the carrier regularly assigned the first trick clerk operator to perform service on his regularly assigned shift for two hours on each and every Sunday. Under the circumstances, the same class of work being regularly performed on first and second shifts, including Sundays, the carrier was not within its right in assigning a meal hour on Sundays to the second trick clerk-operator.

FINDINGS.—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

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 action of the carrier in assigning a meal hour on Sundays to the second shift clerk and operator, Williamstown, Mass., contravenes the terms of the prevailing agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois, this 7th day of April, 1937.