

Award No. 5321

Docket No. CLX-5278

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Angus Munro, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

RAILWAY EXPRESS AGENCY, INCORPORATED

STATEMENT OF CLAIM: Claim of the District Committee of the Brotherhood that

(a) The wage and working agreements were violated through the method used in calculating compensation due train service employe H. J. Williams regularly assigned to operate on Southern Pacific (Pacific Lines) trains 26-25/247-22-21 San Francisco, Calif.-Ogden, Utah Route for the month of August, 1948;

(b) Management errs in its application of Rules 91, 65 and 75 in compensating train service employes where vacation time, working time and overtime are involved in months where the schedule hours are less than 190, and

(c) Messenger H. J. Williams shall now be paid the difference between amount actually received and the amount he should have received for August, 1948 and subsequent thereto until the condition has been corrected.

EMPLOYEES' STATEMENT OF FACTS: Messenger H. J. Williams with basic monthly salary of \$293.10 for 190 hours or less, is regularly assigned in straight-away service to operate on Southern Pacific (Pacific Lines) trains 26-25/247-22-21 San Francisco, Calif.-Ogden, Utah Route and is entitled to twelve (12) working days vacation with pay each year. He was notified that his vacation for the year 1948 would be the period August 5 to 16 inclusive and that he should be back to work on train 26 August 17.

He was relieved for vacation August 5 to 16, 1948 inclusive and returned to work on train 26 August 17 instead of his own schedule which was not due out until train 26 August 22.

Messenger Williams' schedules on his own position, Position 293-6 and the position 293-12 to which transferred for the month of August were as follows:

OPINION OF BOARD: This is a drop back case. What we said in Award No. 5319, also has application here.

Carrier's plea to dismiss that portion of part (c) of claim herein reading "and subsequent thereto until the condition has been corrected" is overruled in that nothing we have said in the above and foregoing Opinion is to be construed as applicable to other than the factual situation here presented in reference to the particular individual therein mentioned.

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 Carrier violated the Agreement to the extent indicated in the above Opinion.

AWARD

Claim sustained in accordance with the above Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 12th day of April, 1951.