

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter—Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY

(Western Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka and Santa Fe Railway that the Carrier is in violation of the terms of the Agreement between the parties when,

(1) it requires the combination of the work of the telegrapher-clerk position with the work of the agent-telegrapher position at Portales, New Mexico, on Monday beginning with Monday, September 5, 1949, compelling the regular occupant of said agent-telegrapher position to perform the rest day relief work and assume the duties of the telegrapher-clerk position in combination with that of his own position on such Mondays, an assigned rest day of said telegrapher-clerk;

(2) it requires the combination of the work of the agent-telegrapher position with the work of the telegrapher-clerk position at Portales, New Mexico, each Saturday beginning with Saturday, September 3, 1949, compelling the regular occupant of the telegrapher-clerk position to perform the rest day relief work and assume the duties of the agent-telegrapher position in combination with that of his own position on such Saturdays, an assigned rest day of said agent-telegrapher; and

(3) the Carrier shall now compensate the senior idle extra telegrapher on the district on the basis of 8 hours at the straight time rate for each Monday and Saturday that the occupants of the positions named in paragraphs (1) and (2) above were used to perform rest day relief work on, and assume the duties of the position of the other; or, if no such idle extra telegrapher available, then the Carrier shall compensate the regular occupant of the position of agent-telegrapher on Saturdays, and the telegrapher-clerk position on Mondays at Portales, New Mexico on the basis of eight hours at the time and one-half rate for such days respectively that the violative practice is continued.

not used on such days is contrary to the well-established principle consistently recognized and adhered to by the Board that the right to work is not the equivalent of work performed under the overtime and call rules of an Agreement. See Awards 4244, 4645, 4728, 4815, 5195, 5437, 5764, 5929, 5967 and many others.

In conclusion, the Carrier respectfully reasserts that the claim of the Employees in the instant dispute is entirely without merit or support under the Agreement rules and should be denied in its entirety.

All that is contained herein is either known or available to the Employees or their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier assigned the Agent-Telegrapher at Portales, New Mexico, Monday through Friday. It assigned the Telegrapher-Clerk, Tuesday through Saturday. On Mondays and Saturdays the one working performed some of the duties of the other. The Organization contends that such an arrangement is violative of the current Agreement.

The case is identical in principle with Award 6946. On the basis of the reasoning of that award, the claim cannot be sustained.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 29th day of March, 1955.