

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

GULF, COLORADO & SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Colorado and Santa Fe Railway System that

1. The Carrier violated the Agreement between the parties when it refused to compensate rest day relief telegrapher T. N. Fair when, on April 25, 1952, he was held for service and not used; and
2. The Carrier shall pay T. N. Fair equivalent to eight (8) hours at the time and one-half rate of his position.

EMPLOYES' STATEMENT OF FACTS: An agreement between the parties bearing effective date of June 1, 1951 is in evidence.

On April 24, 1952, the following regularly assigned positions under the Agreement were in existence at Somerville, Texas:

1st Telgr. Ptr-Clk	7:45am to 3:45 pm, rest days Sun.—Mon.
2nd Telgr. Ptr-Clk	3:45pm to 11:45 pm, rest days Sun.—Mon.
3rd Telgr. Ptr-Clk	11:45pm to 7:45 am, rest days Wed.—Thurs.

Rest day relief work was performed by T. N. Fair, the occupant of a rest day relief position assigned as follows:

Somerville	3:45pm	11:45pm	Sunday and Monday
Milano	3:45pm	11:45pm	Tuesday and Wednesday
Somerville	11:45pm	7:45am	Thursday

Rest days Friday and Saturday.

As indicated by the above assignment, on Thursday, April 24, 1952, relief telegrapher Fair was due to commence work at 11:45 P. M. and finish his tour of duty at 7:45 A. M. Friday. On April 24, 1952, Telegrapher McKinney, regular occupant of the 3:45 P. M. to 11:45 P. M. shift at Somerville was used to fill a temporary vacancy as train dispatcher at Temple, Texas and the Carrier diverted relief telegrapher Fair from his regular assignment to fill McKinney's position commencing at 3:45 P. M. on Thursday, April 24,

in support of the denying decision in Award 5916 clearly warrant a denial of the instant dispute.

In conclusion, the Carrier respectfully asserts that the claim of the employes 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 Employes and their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant T. N. Fair was the regular occupant of a relief assignment, scheduled to work the 11:45 P. M. to 7:45 A. M. shift at Somerville, Texas on Thursday, April 24, 1952. By direction of the Carrier, he was used on that date to work the 3:45 P. M. to 11:45 P. M. shift at Somerville in place of the regular occupant who was used to cover the assignment of a train dispatcher who was ill.

At 10:28 P. M., Thursday, April 24, 1952, claimant received a telegram from his superior notifying him that unless the train dispatcher was able to work the following day, claimant would be expected to work the 3:45 P. M. shift again at Somerville. It was further stated that an effort would be made to let him know definitely as soon as possible. The day in question was Friday, April 25, 1952, one of claimant Fair's regularly assigned rest days.

At approximately 11:30 A. M., Friday, claimant was notified by his superior that it would not be necessary for him to work the Friday shift and that he would get his rest day. Claimant submitted a time slip claiming a day's pay, at time and one-half, for Friday, April 25, 1952. This claim was denied and is now before us.

The question before the Board is whether an employe who has been alerted to the possibility of being required to perform service on his rest day is entitled to claim the punitive rate for the day as though he had worked it. The Organization claims that such an alert notice is an order to put one's self in readiness to perform the stated service and that one would be subject to severe discipline if he should disregard such a notice. It is claimed that, in holding himself in readiness to work, Claimant not only had to forego the benefits of a rest day, but also performed service of value to the Carrier by doing so. Therefore, it is claimed that this employe is entitled to be paid as provided in Article III, Section 20 b—A (1), which follows:

“Service On Rest Days.

“Section 20-b. Employes required to perform service on their assigned rest days **within the hours of their regular week day assignment** shall be paid on the following bases:

“A (1) Employes occupying **positions** requiring a Sunday assignment of the regular week day hours shall be paid at the rate of time and one-half with a minimum of eight hours, **whether the required service is on their regular positions or on other work.**”
(Emphasis added.)

It seems quite evident from this language that the parties intended that the punitive rate should be paid where any service is performed on assigned rest days “within the hours of their regular week day assignment.” As we see it, in order to claim the eight hours' pay at the time and one-half rate, one must either perform a service or be held for service at some time within the hours of the assigned rest days.

Claimant Fair's rest days were Friday and Saturday. Normally he would conclude his Thursday shift at 7:45 A. M. Friday. His first rest day of the

week usually began at 11:45 P. M. Friday and lasted for twenty-four hours. His Saturday rest day was from 11:45 P. M. that day until 11:45 P. M. Sunday. If we understand the language of the parties' Agreement correctly, rest day service for this employe would normally be from 11:45 P. M. Friday until 11:45 P. M. Sunday and the rest day pay provisions would normally apply only during these hours.

Since Claimant was required to take a 3:45 P. M. to 11:45 P. M. assignment on Thursday, April 24, 1952, and was alerted for the corresponding shift on Friday, April 25, 1952, he could reasonably have claimed the punitive rate for hours actually worked or service to the Carrier after 3:45 P. M. Friday, had there been such a requirement for that service. But he was neither required to perform service during his regular rest day hours, nor during the hours following the beginning of the earlier shift which he had worked the previous day. Nor did the alert notice (which was not an order to appear at a particular time) deprive him of any time during his rest day hours.

Therefore we fail to see any violation of Article III, Section 20-b—A(1) or any other provision of the parties' Agreement.

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 Employes involved in this dispute are respectively Carrier and Employes 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: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January, 1957.