

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank Elkouri, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

UNION PACIFIC RAILROAD COMPANY (Northwestern District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Union Pacific Railroad (South Central and Northwestern Districts) that:

(1) Carrier violated the Agreement between the parties hereto when it failed and refused to properly compensate H. R. Naegeli for service rendered on July 4, 1954, at Kenton, Oregon.

(2) Carrier shall be required to compensate H. R. Naegeli for 8 hours, at the pro-rata hourly rate of pay applicable to Kenton, Oregon, in addition to that previously paid for such services on said date.

EMPLOYEES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement between the Union Pacific Railroad Company (South Central and Northwestern Districts), hereinafter referred to as Company or Carrier and The Order of Railroad Telegraphers, hereinafter referred to as Employees or Telegraphers. The Agreement was effective January 1, 1952 and has been amended. The agreement and all amendments thereto are included, by reference, in this Submission.

The dispute herein set forth was handled on the property in the usual manner to the highest officer designated by Carrier to handle such disputes, in accordance with the Railway Labor Act, as amended. The Carrier refused to adjust the dispute on the property. This Division of the National Railroad Adjustment Board has jurisdiction of the parties and the subject matter, as provided in the Railway Labor Act, as amended.

Paul W. Blair was the regular incumbent of position of Telegrapher-Clerk, Kenton, Oregon, with assigned hours of 12:01 A. M. to 8 A. M. His work week was as follows:

Work Days

Friday
Saturday
Sunday
Monday
Tuesday

Rest Days

Wednesday
Thursday

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rata day's pay on designated holidays in addition to payment of time and one-half for any service performed on a holiday.

Telegrapher Naegeli was not the regularly assigned employee on the position filled by him on July 5, 1954, and, consequently, cannot possibly be entitled to the payment of a pro rata day's pay required to be paid to regularly assigned employees.

The claim in this case is clearly an attempt on the part of the Organization to enlarge the provisions of the August 21, 1954 Agreement by asserting payment for an extra telegrapher that is only provided for regularly assigned employees in the Agreement.

The Carrier has shown that extra Telegrapher H. R. Naegeli was paid exactly in accordance with working agreement and the August 21, 1954 Agreement rules.

The claim for payment of an extra pro rata day to extra Telegrapher Naegeli for July 5, 1954, at Kenton telegraph office should be denied.

All data used in this Response to Notice of Ex Parte Submission are of record in correspondence and/or have been discussed in conference with the Organization's representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: This case involves the claim of an extra employee to holiday pay allegedly due him under Section 1, Article II of the August 21, 1954, National Agreement. In numerous Awards the Second and Third Divisions of this Board have held that "regularly assigned" employees, as that term has been traditionally understood in the railroad industry, are the only employees covered by said provision. See Third Division Awards 7430, 7431, 7432 and 7721; Second Division Awards 2052, 2169 and 2297. Claimant was not a regularly assigned employee. Nor does Claimant receive support from Rule 9 of the Parties' Collective Agreement.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties of 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of July, 1957.