

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul N. Guthrie, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE MINNEAPOLIS & ST. LOUIS RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Minneapolis & St. Louis Railway, that:

1. Carrier violated the Agreement between the parties signatory thereto when it failed and refused to properly compensate Telegrapher F. H. Bjornson for Thanksgiving Day, November 25, 1954, a holiday.

2. The Carrier shall now be required to compensate F. H. Bjornson for eight (8) hours at the straight time hourly rate applicable to the agent's position at Gibbon, Minnesota, for November 25, 1954.

EMPLOYES' STATEMENT OF FACTS: The Agreements between the parties to this dispute are on file with this Division of the National Railroad Adjustment Board, and by reference thereto are made a part of this submission.

This claim arises out of Carrier's refusal to pay claimant F. H. Bjornson for eight (8) hours at the pro rata rate of the position at Gibbon, Minnesota, for Thanksgiving Day, November 25, 1954, in accordance with the provisions of Article 2, Sections 1 and 3 of the August 21, 1954 Agreement.

Extra Agent-Telegrapher F. H. Bjornson, claimant in this dispute, was, on the date of violation, the holder of a temporary assignment on the second shift position at Winthrop, Minnesota. Bjornson had acquired this position by virtue of his seniority under Article 4 of the Agreement.

The position at Winthrop having been advertised under the provisions of Article 15, "Vacancies", was assigned to Mr. Bjornson by Bulletin Notice on November 16, 1954. However, Mr. Bjornson, under the provisions of Article 17 was being used to perform relief service on the Agent's position at Gibbon, Minnesota, where he commenced work on November 15, and where he worked to and including November 26, 1954. Part of this relief work consisted of vacation relief, November 16 to 22nd, inclusive, and the balance, November 23 to 26, 1954, was sick leave relief work. Thus, it will be noted that Mr. Bjornson worked on this assignment on November 24 and November 26, the day before and the day after Thanksgiving Day, November 25, 1954, which is one of the seven designated holidays under Article II, Sections 1 and

The claimant was not a regularly assigned hourly or daily rated employe, nor was he assigned to the Agent's position while at Gibbon. He therefore did not qualify for the holiday pay under the provisions of the above quoted article.

The claim is without merit and should be denied.

All data in support of Carrier's position has been presented to the representative of the Employees.

(Exhibits not reproduced).

OPINION OF BOARD: In this case claim is made on behalf of Telegrapher F. H. Bjornson for holiday pay at pro rata rate for Thanksgiving Day, November 25, 1954. On claim date Claimant, an extra Telegrapher, was relieving the regularly assigned Agent at Gibbon, Minnesota.

Petitioner contends that under the terms of Article II, Sections 1 and 3 of the National Agreement of August 21, 1954, Carrier was obligated to pay Claimant for the holiday in question.

Carrier contends that Claimant was properly compensated; that he was not eligible for holiday pay on this date inasmuch as he was an extra employe and not a "regularly assigned" employe as required by Article II, Section I of the cited Agreement.

Thus we see, the same basic question is posed in this case as in Award 8053.

However, there is one additional and particular question to be considered here. On pages 1 and 2 of Petitioner's submission to this Division reference is made to Claimant being the holder of a temporary assignment as a result of bulletin procedure at Winthrop, Minnesota. This is the only reference to this possibility in the docket, and it appears not to have been a factor in the handling on the property.

The whole case is argued by Petitioner on the basis that despite the fact that Claimant was an extra Telegrapher at this time, he was, for purposes of the holiday rules, "regularly assigned" on claim date, and hence, entitled to holiday pay. The record reveals two letters (pages 29 and 32 of the record) by the General Chairman of the petitioning organization, in which it is stated specifically that Claimant was an extra Telegrapher. In view of these facts we must conclude that Claimant was in fact an extra employe on claim date. Such being the case, the issue to be decided here remains the same issue as that decided in Award 8053. We can reach no other conclusion than that Claimant, being an extra employe, on claim date, he was not "regularly assigned" as required by Article II, Section I of the August 21, 1954 National Agreement. Therefore, the claim has to be denied.

This conclusion is the same as that reached in Third Division Awards 7430, 7431, 7432, 7978, 7979, 7980, 7982, and in Second Division Awards 2052, 2169, and 2297, where the same basic issue was involved.

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: A. Ivan Tummon
Executive Secretary

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