

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William E. Grady, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

NORFOLK SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Norfolk Southern Railway that Telegraphers C. J. Parker, J. F. Martin and W. H. Fletcher shall each be compensated for eight hours at time and one-half rate for December 25, 1954, account suspended from work on insufficient notice.

EMPLOYES' STATEMENT OF FACTS: 1. Claimant C. J. Parker was the duly assigned relief employe at Marsden, North Carolina, having been assigned thereto on September 22, 1954 under the following bulletin:

"NORFOLK SOUTHERN RAILWAY COMPANY

Raleigh, N. C.

September 9, 1954 gn
73-100
PR-J. B. Hale

BULLETIN NO. 3429
Agents-Operators—Northern District

Bids will be received through September 19, 1954, for position of relief agent-operator, operator-clerk at Marsden account of death of Operator-clerk J. B. Hale. Assigned hours and rates of pay being the same as positions relieved, daily except Tuesday and Wednesdays.

J. C. Poe

General Superintendent

cc
Mr. S. C. Cherry (2)
Mr. C. D. La Frage (3)
Mr. W. D. Yates (3)
All agent-operators, operator-clerks, and star agents—
Northern District."

For the reasons hereinabove stated, respondent carrier submits that the claims asserted are without contractual basis, and that accordingly same should be denied, and urges that your honorable Board so hold.

OPINION OF BOARD: The claim is that the Carrier was required to give advance notice to Claimants that their assignments were being blanked on a holiday and failed to do so.

The holiday in question, Christmas Day, 1954 was a work day for each Claimant under a standing order issued in 1950 which, so far as material, said, "This . . . means that you are assigned to work on holidays unless the holiday is one of your rest days."

On Christmas Eve the Carrier decided for operating reasons to blank Claimants' positions on Christmas Day. Article 7 (o) of the Agreement says: "Employees will be excused from holiday duties as much as the condition of business will permit."

The Organization does not dispute the Carrier's right to blank the holiday but contends that the Carrier failed to give notice under Article 6 (a) of the Agreement entitled "Starting Time", which provides that "Regular assignments shall have a fixed starting time and the regular starting time shall not be changed without at least thirty-six (36) hours' notice to the employees affected." Thirty-six hours notice was not given to the Claimants. The Organization also refers to Article 11, entitled "Suspension of Work During Regular Hours", which says, "Employees will not be required to suspend work during regular hours or to absorb overtime."

The crucial provision is Article 7 (o). It deals specifically with holidays and contains no requirement that prior notice of blanking be given. When the Carrier blanked the holiday, then the holiday, for the purposes here concerned, was, in effect, expunged. The blanked holiday assignment, though regular, had no "starting time" within the meaning of Article 6 (a) and there was no "work" to be suspended within the meaning of Article 11. (See e.g., Award No. 7294.)

The Organization refers to Award No. 5661 involving the same parties. There the claimant had standing instructions to work holidays (Sundays). Two were blanked. On one he was sent home upon reporting to work and on the other was given a little over three hours notice not to report. The rules there involved are substantially those before us here. The Carrier, without reserving its position, had paid a call for the holiday on which claimant had reported for work. It appears that liability was, therefore, taken as conceded and the claim sustained on that ground. Here there has been no payment or concession.

Consequently, we shall deny the claims.

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

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1960