

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Walter L. Gray, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

GEORGIA RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Georgia Railroad, that:

1. Carrier violated Section (g), Article 8, Telegraphers' Agreement when on the 5th day of October, and again on October 26, 1955, it declined payment of time tickets submitted by Extra Telegrapher R. D. Newsom, account of time consumed for dead-heading from Union Point to Sparta (both in Georgia), going, and from Sparta to Union Point, returning, in filling assignment under Section (e), Article 8; also when it declined payment to him for like service from Union Point to Lithonia (both in Georgia) and returning Lithonia to Union Point, on October 31, 1955.

2. Carrier shall now compensate R. D. Newsom, Extra Telegrapher, Union Point, Georgia, in accordance with Section (g), Article 8, in going to and from assignments under Section (e) as follows:

2 hours and 38 minutes, at the rate of the Agent-telegrapher position, Sparta, for time consumed in dead-heading between Union Point in conformity with schedules of trains 4 and 37, leaving Union Point 11:40 P. M., October 5, arriving at Sparta 2:18 A. M., October 6, and for six hours and 13 minutes returning from same assignment in conformity with schedules of trains 38 and 3, leaving Sparta 10:15 P. M., October 26th, arriving Union Point 4:28 A. M., October 27, 1955; and additionally 1 hour and 46 minutes, for time consumed in deadheading, at the pro rata rate of Agent, Lithonia, in conformity with schedule of train 3, leaving Union Point 4:28 A. M., arriving at Lithonia 6:14 A. M., same date, going, and one hour and 55 minutes, in conformity with train 4, and leaving Lithonia 9:45 P. M. arriving Union Point 11:40 P. M., same date, returning.

3. The foregoing claim was, in due course of handling on the property, appealed to the highest officer designated by Carrier to handle such disputes, on January 28, 1956; such officer failed to render decision within 60 days as provided in Article V, August 21, 1954 Agreement; demand was then made that the claim be allowed as presented; Carrier has failed to allow the claim.

4. Carrier will be required to allow the claim, as presented, because of failure to comply with Article V, August 21, 1954 Agreement.

EMPLOYEES' STATEMENT OF FACTS: There are in full force and effect several collective bargaining agreements entered into by and between GEORGIA RAILROAD, hereinafter referred to as Carrier or Management and THE ORDER OF RAILROAD TELEGRAPHERS, hereinafter referred to as Employees or Telegraphers. The Rules Agreement was effective September 1, 1949. Copies of the Agreements are on file with this Board and, by reference are included in this submission as though set out herein word for word.

The dispute set forth herein was handled on the property in the usual manner through the highest officer designated by carrier to handle such disputes and failed of adjustment. Under the provisions of the Railway Labor Act, as amended, this Division has jurisdiction of the parties and the subject matter for the purpose of entering award.

The dispute involves the payment for time used by an extra employe in going from his headquarters station to point of service and return to headquarters station. The particular rule, upon which the claim is based, reads as follows:

Article 8(g) "When such service is required by the proper officers, for the convenience of the railroad, extra employes will be paid for time consumed for deadheading and relief service but shall not receive compensation for this service to exceed one day's pay of the employe relieved for each twenty-four (24) hours or fraction thereof en route to and from the assignment."

The dispute embraces four different claims filed by extra employe R. D. Newsom, whose headquarters station is located at Union Point, Georgia. One claim involves trip from Union Point to Sparta, Georgia, and return and the other from Union Point to Lithonia, Georgia and return.

On September 27, 1955, F. E. Morgan, Assistant Superintendent, issued the following directive to Mr. Newsom:

"R. D. Newsom relieve M. H. Cook, Agent, Sparta, Thursday, October 6th for fifteen days' vacation" (Employees' Exhibit 1).

Mr. Cook, under the provisions of the Vacation Agreement (August 21, 1954 Agreement, adopted by this Carrier, May 20, 1955), was entitled to and did receive fifteen work days' vacation, i.e., from October 6, 1955 to October 26, 1955, inclusive, and was relieved during the entire vacation period by Mr. Newsom.

For October 5, 1955, Mr. Newsom turned in time slip for 2 hours and 38 minutes as travel time from Union Point to Sparta, in accordance with

Petitioner refused to cooperate in this undertaking and falls back on a violation of the time limit rule. If the case is to be decided on the one fact that carrier did not decline the case within the 60-day limit, then carrier must admit that is true.

However, carrier does not feel that where it has made a sincere effort to dispose of a claim that it should be charged with a technical violation of the agreement. Carrier could have very easily declined the claim on its receipt. That is not the way to handle claims. Carrier was making an honest effort to dispose of this matter to the best interest of all concerned. Apparently, however, petitioner does not desire to handle claims in this manner.

Carrier feels that, for reasons above outlined, this claim should be denied and so requests.

All data contained herein has been made available to petitioner.

OPINION OF BOARD: This is a dispute between The Order of Railroad Telegraphers and the Georgia Railroad.

The Employees contend that there was a violation of Article 8(g) of the Agreement.

In the handling of the claim it appears the Carrier did not comply with the Time Limit Rule (Article V, August 21, 1954 Agreement) effective October 1, 1955.

This rule reads as follows:

"Should any such claim or grievance be disallowed, the Carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance, (the employe or his representative) in writing of the reasons for such disallowance."

An examination of the record shows that the time limit was violated and there can be no question as to the fact that the Carrier is barred from raising objection because the neglect was purely that of Carrier and they so admit on Page 48 of the Record.

Having disposed of this dispute on the Time Limit violation it is not necessary to go into the merits of the case.

The claims as presented must 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 Employee 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 has been violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1961.