

Award No. 10470

Docket No. TE-9301

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert J. Ables, Referee

PARTIES TO DISPUTE:

CHICAGO GREAT WESTERN RAILWAY COMPANY

THE ORDER OF RAILROAD TELEGRAPHERS

STATEMENT OF CLAIM: (11) Carrier's file 0-180. Claim No. 707-716 by the General Committee of The Order of Railroad Telegraphers of the Chicago Great Western Railway that:

(a) the Carrier violated the terms of the Agreement between the parties and the agreement reached in conference with the Carrier's Personnel Officer on October 16, 1951, when on March 22, 1954, the Assistant Superintendent instructed the Agent at Eagle Grove, Iowa as follows: "Effective immediately arrange to open your station at 12:01 A. M. Monday through Saturday to handle mail and passengers". Part (5) of the agreement in conference on October 16, 1951, and confirmed by letter same date reads: "Situation at Harlan and Eagle Grove with respect to contract handling of U.S. Mail will be permitted to remain status quo". Monthly rated Agents cannot be required to work unreasonable hours except in emergency.

(b) as a result of this violation the Carrier shall now compensate the Agent at Eagle Grove, starting on March 23, 1954, and continuing until the practice is discontinued, in the amount of eight (8) hours pay at the straight time rate of the position (computed as shown in the 40 hour week agreement) for each and every day that this service is required and for whom such compensation is claimed. Also the Carrier shall now compensate the senior employe, idle on each and every day as shown above, on the MC&FD Seniority District, in the amount of eight (8) hours pay at the straight time rate for being deprived of work to which entitled and for these employes such compensation is claimed.

EMPLOYEES' STATEMENT OF FACTS and POSITION OF EMPLOYEES:

The above Carrier described cases are not ready for consideration and action by your Board. They are a group of unsettled disputes involving this Carrier and this Organization which have not been handled to conclusion on the property and the right of this Organization to endeavor to settle them by further negotiations or by means other than National Railroad Adjustment Board pursuant to Article V, Section 5, of the Agreement of August 21, 1954, has been challenged by the Carrier in the Courts.

Railroad Adjustment Board, is, accordingly, requested to so find and deny the payment of this claim.

Exhibit "A" is attached hereto and made a part hereof as if fully set forth herein.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same as in Award 10460 in all material respects, except that the claim was declined by the highest designated officer of the Carrier on January 11, 1955, a date subsequent to the effective date of the National Agreement of August 21, 1954. Under Section 2 and 1(c) of Article V of the Agreement, the Employees had 9 months, or until October 11, 1955, to perfect an appeal to this Division. Since no such appeal was taken and for the reasons stated in Award 10460, this claim should be dismissed.

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 claim is barred by Section 2 and 1(c) of Article V of the National Agreement of August 21, 1954.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March, 1962.