

Award No. 11970
Docket No. TE-10302

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Michael J. Stack, Jr., Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

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

1. Carrier violated the Telegraphers' Agreement when it required R. E. Atkins, regularly assigned relief Clerk-Telegrapher, to suspend work during the regular hours on his assigned position, Harrodsburg, Kentucky, January 14, 15, 16 and 21, 1957, and work the first shift Agent-Telegrapher position, Harrodsburg, Kentucky.

2. Carrier shall compensate R. E. Atkins the difference between the pro rata rate he was paid and the time and one-half rate of pay to which he was entitled for January 14, 15, 16 and 21, 1957, when he was required to work the first shift Agent-Telegrapher position outside his regular assigned hours at Harrodsburg, Kentucky.

EMPLOYEES' STATEMENT OF FACTS: Claimant R. E. Atkins was the regular assigned rest day relief clerk-telegrapher at Harrodsburg, Kentucky. His relief assignment with assigned hours is programmed as follows:

First shift	Saturday and Sunday	8:00 A.M. to 4:00 P.M.
Second shift	Monday and Tuesday	4:00 P.M. to 12:00 Midnight
Third shift	Wednesday	12:00 Midnight to 8:00 A.M.

Assigned rest days Thursday and Friday.

Mr. E. L. Watson is the regular assigned first shift agent-telegrapher, Harrodsburg, Kentucky. His assigned work week begins on Monday with rest days of Saturday and Sunday. His assigned hours are 8:00 A.M. to 4:00 P.M.

OPINION OF BOARD: This issue is raised by this docket:

Is it a violation of the agreement to compensate a regular assigned relief operator at only the straight time rate when he is temporarily required by the Carrier to work a regular first, second or third trick in the absence of the regular occupant when no extra operator is available. We hold that it is not.

The Claimant here was the regular relief operator at Harrodsburg, Kentucky. Between January 2 and 21 of 1957 the first trick operator was on vacation. The extra operator worked the vacationing operators trick until January 13 when he was injured in an accident. The Claimant was then temporarily transferred to fill the unprotected first trick until the return of the regular first trick operator on January 21, 1957.

The employe claimed this diversion from his regular relief assignment required compensation at the rate of time and a half. He alleged that the rules operated to give him ownership of his position and any work done on any assignment other than the one he owned was in excess of the requirements of his position and that the overtime rate must then apply for each hour so worked. We find nothing in the agreement to support this position.

Rules 14 and 14 which relate to transfers and relief work do not lend themselves to such construction. They read as follows:

"Rule 14 — Transfers

"(a) Employees transferred on their respective division by direction of the Company will be furnished free transportation for themselves, families and effects where same does not conflict with State or Federal laws, and will be allowed regular pay while in transit and making such transfer, rate of pay to be based on position from which transfer is made.

"(b) When an employee is temporarily transferred to a position paying a lower rate of wage than his regular assignment, he will be paid at the rate of his regular wages.

"(c) When transferred temporarily to a position paying a higher rate of wage, he will be paid at the rate applying to position to which transferred."

"Rule 15 — Relief Work

"When, by competent authority, an employee is sent from his regular office to another office at a different city or town to work extra he will be paid five dollars per calendar day for expenses, in addition to his regular pay, computed until he returns to his regular position; provided that employees will not be paid twice for the same service."

In fact the action taken by the Carrier had been in practice for many years.

We have carefully considered the language of Rules 4 (e), (k), 9 (a) (b) (c) (d), 14 (a) (b) (c), 16, 18 (g) (h) and the Vacation Agreement of

December 17, 1941 as amended Articles 5 and 6 and find them not to be inconsistent with our conclusion.

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: S. H. Schulty
Executive Secretary.

Dated at Chicago, Illinois, this 13th day of December 1963.