

Award No. 12294

Docket No. TE-10496

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, 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 failed and refused to reimburse R. H. Phillips for expenses incurred during the months of April and May, 1957 for the use of his private automobile while performing service on the Athens-Sweetwater-Cleveland rest day relief assignment.

2. Carrier shall reimburse R. H. Phillips, the regular occupant of the Athens-Sweetwater-Cleveland rest day relief position, at the rate of eight (8) cents per mile for 1278 miles traveled during the months of April and May, 1957 on the aforementioned position. Total amount due \$102.24.

3. If Carrier continues the violation set forth above, then this claim is hereby made continuous and shall serve as claim for any future reimbursement for travel expenses incurred by the claimant while performing service on the aforesaid position. At the close of each month claimant shall complete and file with the Carrier, Carrier's Form 1750-1, the designated form for claiming travel expenses, and the same shall be made a part of this claim.

EMPLOYEES' STATEMENT OF FACTS: R. H. Phillips is the regular assigned rest day relief employe on the Athens-Sweetwater-Cleveland rest day relief position designated with headquarters at Athens, Tennessee. Mr. Phillips performs rest day relief service in the following manner:

Athens, Tennessee	Agent-Telegrapher	Saturday	8:00 A.M. to 5:00 P.M.
Sweetwater, Tennessee	Clerk-Telegrapher	Sunday	8:00 A.M. to 4:00 P.M.
Sweetwater, Tennessee	Clerk-Telegrapher	Monday	8:00 A.M. to 4:00 P.M.
Sweetwater, Tennessee	Clerk-Telegrapher	Tuesday	12:00 Mid. to 8:00 A.M.
Cleveland, Tennessee	Clerk-Telegrapher	Wednesday	11:00 P.M. to 7:00 A.M.
Rest Days Thursday and Friday			

During the months of April and May, 1957, Claimant Phillips was required to make the following trips in the performance of his duties as rest day relief employe:

been violated, and that it does not support the part of claim here in dispute. (Carrier has conceded above herein that claimant is entitled to pay at 8 cents a mile for 774 miles on the dates indicated, not the total of 1278 miles claimed). It has further proven that the ORT has heretofore conceded the point here at issue.

The Board, having heretofore recognized that it is without authority under the law by virtue of which it functions to grant new rules or modify existing rules as here demanded by the ORT, cannot do other than hold that there has not been any violation of the effective Telegraphers' Agreement in evidence, that it does not support the part of claim in dispute, and make a denial award.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue here is identical with that disposed of in Award No. 12293, involving these same parties. That Award being controlling, the claim will be denied.

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 Carrier did not violate the Agreement between the parties.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1964.