Award No. 12335
Docket No. TE-10804

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

LEHIGH VALLEY RAILROAD COMPANY

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

1. Carrier violated provisions of Article 2 of the August 21, 1954 Agreement between the parties hereto when it failed and refused to pay Walter J. Keegan for eight (8) hours at the pro rata rate of his position (towerman-telegrapher — 6:59 A. M. to 2:59 P. M. — Niagara Junction) for designated holiday, Labor Day, September 2, 1957.

2. Carrier shall compensate Walter J. Keegan for eight (8) hours at the pro rata rate of his position ($2.265) as paid holiday for Labor Day, September 2, 1957, in addition to the compensation paid him for services rendered on that holiday.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect various collective bargaining agreements between the Lehigh Valley Railroad Company, hereinafter called the Carrier or Management, and The Order of Railroad Telegraphers, hereinafter called Employes or Telegraphers. Such agreements are on file with this Division and are, by reference, made a part of this submission as though set out herein word for word.

This dispute was handled on the property in the usual manner through the highest officer designated by Carrier to handle such disputes and failed of adjustment. The dispute involves interpretation of the collectively bargained agreement and is, under the Railway Labor Act as amended, submitted to this Division for an award. The Board has jurisdiction of the parties and the subject matter.

The dispute submitted herein involves interpretation of Article 2 (Holidays) August 21, 1954 Agreement. The two pertinent sections are Section 1, reading as follows:

"Effective May 1, 1954, each regularly assigned hourly and daily rated employe shall receive eight hours' pay at the pro rata hourly rate of the position to which assigned for each of the following

Hours of Service Act. Mr. Thomas was not required to be used as the yardmaster as he did not have such class of seniority; hence the use of him in the manner as was done deprived him of being available to work on his regular position, November 23rd, and under these circumstances the Carrier could not deprive him of the earnings of his regular assignment position, November 23rd, or the holiday pay for Thanksgiving Day, November 22nd, involved in his claim.

It is obvious that the facts in the Thomas claim are entirely dissimilar to the facts in the instant claim. In the Thomas case the Carrier deprived claimant of being available to work on his regular position. In the instant case Mr. Keegan himself reported off on Sunday, September 1, 1957, giving illness as the reason for his absence from duty.

The Article involved and upon which the claim herein is based is not difficult to interpret. As a matter of fact, the language is quite simple — to the effect that in order to qualify for the claimed holiday pay the employe must have compensation credited to him for the workday immediately preceding the holiday as well as the first workday immediately following such holiday. In the instant case, Mr. Keegan did not work on September 1, 1957, the workday of his position immediately preceding the holiday, and there was no compensation credited or due him for that day. Thus, he could not qualify for this holiday pay the rule provides.

The claim herein should be denied.

OPINION OF BOARD: We concur in Award No. 11642 which involved the identical contract and a factual situation similar to that in the instant case. The claim, therefore, is denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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

The Agreement of the parties 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 March 1964.