

Award No. 12797
Docket No. TE-11504

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE NEW YORK, CHICAGO AND ST. LOUIS
RAILROAD COMPANY**

(Wheeling and Lake Erie District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The New York, Chicago and St. Louis (Wheeling and Lake Erie District) Railroad, that:

1. The Carrier violated the parties' Agreement when it failed and refused to compensate N. L. Rennekar, Agent-Telegrapher, Hartland, Ohio, at the time and one-half rate instead of the pro rata rate, for work performed on Friday, May 2 and Saturday, May 3, 1958, rest days of the position occupied, and,

2. The Carrier violated the parties' agreement when it failed and refused to compensate M. W. Yoder, second shift telegrapher, Hartland, Ohio, at the time and one-half rate instead of the pro rata rate for work performed on Sunday, May 4 and Monday, May 5, 1958, rest days of the position occupied.

3. The Carrier shall, because of the violations set out above, compensate N. L. Rennekar and M. W. Yoder for the difference between the straight time rate paid them and the time and one-half rate due for work performed on their respective rest days.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective, as to rules, February 1, 1952, and as to rates of pay, February 1, 1951, and as revised.

At page 57 of said Agreement is listed the position covered by the Agreement at Hartland as of the effective date of the Agreement. The listing reads:

Location	Position	Hourly Rate
Hartland	Agent-Telegrapher	\$1.698
	Telegraphers (2)	1.650

In Award 7918 it was held:

"Having upheld the Carrier's right to change rest days it necessarily follows that such action changes the work week and thereby changes the assignment but not the position. * * *"

It is plainly evident that the days involved in the instant claim were work days of the claimants' new work weeks. No time and one-half payments are in order.

Since the advent of the five-day work week in 1949 the Carrier has on many occasions changed the rest days of employees under this agreement. Following are a few of such instances picked at random from the files where the change resulted in the employees having to work more than five consecutive days:

Name	Date Notified	Consecutive Days Worked
V. N. Terry	3/1/50	7
R. Ream	3/1/50	7
G. A. Leath	11/26/57	6
R. H. Conoway	5/18/56	6
H. A. Roe	2/18/58	7
G. A. Storl	10/13/58	6

No claim for time and one-half was ever made or allowed covering these instances.

The Carrier has shown that the claim is without merit under the rules and under practices in effect since the adoption of the five-day work week. It should therefore be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This dispute concerning claims for overtime pay for work performed by Mr. N. L. Renneckar on Friday and Saturday, May 2 and 3, 1958, and by Mr. M. W. Yoder on Sunday and Monday, May 4 and 5, 1958, arose from a change in Claimant's rest days.

The facts are not in dispute. Mr. Renneckar and Mr. Yoder are regularly assigned occupants of the Agent-Telegrapher and second shift Telegrapher's positions, respectively. On Monday, April 28, 1958 Carrier notified these employees that effective May 1, 1958, Mr. Renneckar's rest days were to be changed from Friday and Saturday to Sunday and Monday, and Mr. Yoder's rest days were to be changed from Sunday and Monday to Tuesday and Wednesday. Mr. Renneckar, beginning the week of Sunday, April 27, worked through Saturday, May 3, seven consecutive days. Mr. Yoder, beginning Tuesday, April 29, also worked seven consecutive days through May 5th.

They contend that they were entitled to receive time and one-half pay rate for the 6th and 7th consecutive days they worked, which they allege were their rest days.

The issue presented in this dispute has been before the Board on a number of occasions. Awards Nos. 9962, 8868, 9243, 9548, 12600 and 11991 among others, sustained similar claims. We adopt the holding in these awards and, therefore, sustain the claims.

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 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 violated.

AWARD

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1964.