

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Don Hamilton, Referee

**PARTIES TO DISPUTE:**

THE ORDER OF RAILROAD TELEGRAPHERS

THE ANN ARBOR RAILROAD COMPANY

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Ann Arbor Railroad that:

1. The Carrier violated the agreement between the parties hereto, when it failed and refused to compensate Extra Telegrapher R. L. Chadwick the deadhead allowance due him in accordance with the provision of Rule 12 of the Agreement.

2. The Carrier shall, because of the violation set out above, allow R. L. Chadwick seven (7) hours and fifty (50) minutes deadhead time at the rate of \$2.18 per hour for April 26, and nine (9) hours and fifteen (15) minutes deadhead time at the rate of \$2.18 per hour for April 29, 1959.

**EMPLOYES' STATEMENT OF FACTS:** There is in evidence an agreement by and between the parties to this dispute, effective September 1, 1955, and as amended.

This claim stems from Carrier's refusal to compensate Extra Telegrapher R. L. Chadwick the deadhead allowance as set forth in the statement of claim, in accordance with the provisions of Rule 12 of the parties' agreement.

Claimant Chadwick is an extra telegrapher with headquarters at Temple, Michigan, where he resides. Temple is located 207 miles west of Ottawa Yard, the latter is within the terminal limits of Toledo, Ohio.

On or about April 25, 1959, Claimant Chadwick was ordered by the Carrier to protect rest day vacancies on the first shift telegrapher-leverman position at Boulevard Interlocker, Toledo, Ohio, commencing at 7:59 A.M., Saturday, April 25 and Sunday, April 26, 1959. At 3:59 P.M. on Sunday, April 26, the claimant had completed the assignment to which ordered by the Carrier. Having completed the assignment at Boulevard Tower the claimant would, under ordinary circumstances, have returned to his home station or headquarters, Temple, Michigan, for which he would have received the deadhead allowance provided by Rule 12 of the agreement. Instead, however, he

The Petitioner is attempting through the medium of an award by this Division to enlarge upon the provisions of Rule 12 of the telegraphers' agreement to provide deadhead compensation for employes included within the scope of that agreement for trips in fact not made and thereby obtain a new rule without necessary resort to the proper procedure provided for and required by the Railway Labor Act.

The National Railroad Adjustment Board, Third Division, is without jurisdiction to amend, promulgate or grant rules, and the contention of the Committee should be dismissed and the claims denied.

(Exhibits not reproduced.)

**OPINION OF BOARD:** Claimant is a telegrapher, residing at Temple, Michigan. The Carrier advised him to report to Boulevard Towers, Toledo, Ohio, for a first trick assignment on April 25 and 26, 1959. He deadheaded to Toledo and completed the assignment. He then qualified for the telegrapher's position at Hallett Tower, and worked April 27, 28, and 29, 1959. This is one and one-half miles from Boulevard Tower. At the completion of this assignment, he filled a temporary vacancy position, second trick telegrapher, at Hallett Tower April 30, May 1 and 2, 1959. He then deadheaded to Temple, Michigan on May 3, 1959. Carrier allowed Claimant deadhead payment for April 24, Temple to Boulevard and May 3, Toledo to Temple.

This claim is presented for April 26, deadhead allowance, Toledo to Temple; and April 29, Temple to Toledo. In other words, Claimant urges that he should receive deadhead allowance for a trip to and from his headquarters, for the subsequent assignment, even though he was already on location at the subsequent assignment and did not in fact deadhead.

The claim is presented under Rule 12 of the Agreement. This rule provides, "employes deadheading by order of the company", etc. Carrier maintains that Claimant does not qualify under this rule since he was not ordered to deadhead by the company, nor did he in fact do so. Based on the record in the case, we are of the opinion that this position is correct, and the claim should be 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

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 14th day of October 1964.