

**Award No. 14082
Docket No. TE-14066**

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)**

CENTRAL OF GEORGIA RAILWAY COMPANY

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

1. Carrier violates the provisions of Rule 9 (Sick Leave) when it refuses to pay C. F. Poole, Jr., a day's pay for February 24 and 25, 1962, when off duty account serious illness of his father.
2. Carrier shall, because of the violation set out in paragraph one hereof, pay C. F. Poole, Jr., two (2) days' pay at the rate of the position occupied on the dates in question.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute, effective October 31, 1959, and as amended. Copies of said Agreements are, in accordance with law, assumed to be on file with your Board and are, by this reference, made a part hereof.

C. F. Poole, Jr., hereinafter referred to as Claimant, is the regularly assigned clerk-operator at Opelika, Alabama.

Central of Georgia Railway Company is the respondent, and will hereinafter be referred to as Carrier.

On February 22, 1962, one of claimant's rest days, claimant was notified by members of his family that his father was seriously ill and was being hospitalized at Sylvester, Georgia, some 150 miles distance. Upon receipt of the notice claimant advised the Carrier that because of the serious illness of his father it would be necessary for him to go to Sylvester to be at his father's bedside. February 23, 24 and 25, being work days of his position, it was necessary for the Carrier to provide relief on the claimant's position.

The claimant was notified on February 25, by the attending physician, that his father was out of danger, whereupon claimant reported to the Carrier that he would assume his position on February 26.

2676, and others. Also see Second Division Awards Nos. 2938, 2580, 2569, 2545, 2544, 2042, 1996 and others — all of which clearly state that the burden is on the claimant party to prove an alleged violation of the agreement. To date, the Petitioners have produced no evidence of any violation.

In view of all the facts and circumstances shown by the Carrier in this Ex Parte Submission, Carrier respectfully requests the Board to deny the claim in its entirety.

OPINION OF BOARD: Claimant, C. F. Poole, Jr., contends that he was off duty on February 23, 24 and 25, 1962, on account of the serious illness of his father. On his return to work, claim was made for three days' sick leave under Rule 9 (d) of the Agreement. Carrier paid Claimant one day's sick leave, but responded that no necessity could be seen for Claimant's being away from work February 24th and 25th, contending that his father's illness was neither serious within the meaning of the rule, and that the length of time that he was off duty was not "reasonable" within the meaning of the Rule.

Rule 9 (d) of the Agreement reads as follows:

"(d) In case of serious illness or death in the immediate family of an employe a reasonable length of time will be allowed off duty, subject to the provisions of paragraph (a). Such time will be charged against the employe under the provisions of paragraphs (a) and (b) as sick leave."

The Board is convinced that the illness of Claimant's father comes within the term "serious illness" as used in Rule 9 (d) of the Agreement. The Board is also convinced that the three days in question come within the term "reasonable length of time" as used in the same Rule.

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 has been violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 12th day of January 1966.