

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(FORMERLY THE ORDER OF RAILROAD TELEGRAPHERS)**

ERIE-LACKAWANNA RAILROAD COMPANY

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

1. The Carrier violates the terms of an Agreement between the parties hereto when commencing Saturday, May 23, 1959, and each Saturday thereafter when it failed to call the Agent-Operator at Horseheads, New York to perform work attached to his position on the rest day thereof.

2. The Carrier shall, because of the violation set out in Item 1 of this Statement of Claim, compensate R. B. Coney, regularly assigned Agent-Operator at Horseheads, New York, or his successor, a day's pay at the time and one-half rate of said position for each Saturday commencing July 18, 1959 (as provided by Rule 36, paragraph 2) and for each Saturday thereafter so long as the violation continues.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute, effective March 1, 1957, and as otherwise amended.

At page 43 of said Agreement is listed the position existing at Horseheads, New York on the effective date of said Agreement. The listing reads:

LOCATION	OFFICE	POSITION	NO. OF POSITONS	RATE
Horseheads	HS	AO	1	\$2.230

In an Agreement between these same parties, effective May 1, 1929, at page 22 is listed the position existing at Horseheads on the effective date of that Agreement. The listing reads:

LOCATION	OFFICE	POSITION	NO. OF EMPLOYES	RATE
Horseheads	HS	AO	1	\$.66

At the time of the May 1, 1929 Agreement, Horseheads was a one-man agency, working a seven day position.

Effective with the rest day agreement of March 1, 1945 (A-2070), the agent-operator's position at Horseheads was reduced to a six day position and the seventh day thereof protected by rest day relief assignment.

Furthermore, it was pointed out to you that there was absolutely no need for a supervisor to be on duty along with the chief clerk.

For the foregoing reasons the claim is without merit and is denied.

Yours very truly,

/s/ T. J. Sanok"

OPINION OF BOARD: The position of Agent-Operator was reduced from a six day week assignment to a five day week assignment. The employe regularly assigned to the position continued to work from Monday through Friday with Saturday and Sunday as rest days. Carrier discontinued the rest day relief Agent-Operator position. Thereafter the Chief Clerk, who was regularly scheduled to work on Saturday, performed some, if not all, of the duties heretofore performed by the relief Agent-Operator on Saturday.

Petitioner and Carrier have argued their respective positions in this dispute as they did in Award 14703. The issues in both disputes are identical. We have fully discussed the application of the contract rules, particularly Rule 10 (m) and the appropriate penalty in Award 14703. Our conclusions reached in that dispute are affirmed here.

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 Carrier violated the Agreement.

AWARD

Items 1 and 2 of the claim are sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1966.