

Award No. 14879  
Docket No. TE-13168

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**John H. Dorsey, Referee**

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**PARTIES TO DISPUTE:**

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

**THE PENNSYLVANIA RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Pennsylvania Railroad that the following extra employees qualify for holiday pay as provided in the August 19, 1960 Agreement and shall be paid eight (8) hours at the pro rata of the position on which compensation last accrued to them, for Labor Day, September 5, 1960, which holiday fell on a workday of their workweek as provided in the August 21, 1954 Agreement as amended by the August 19, 1960 Agreement:

H. Hoy  
J. L. Donley  
D. M. Rugh  
H. L. Sheaffer  
H. Z. Baker  
L. A. Dunn  
H. W. Peifer  
C. B. Ott  
D. T. Rittler  
R. K. Miller  
O. P. Keller  
J. F. Peifer  
G. R. Brisiel  
J. S. Shiprak  
V. E. Heaps  
J. C. Cramer  
D. G. Cramer  
W. E. Stare  
J. M. Everhart

G. J. Dunlevy  
W. E. Bickhart, Jr.  
R. L. Jacobs  
J. N. Stoner  
E. R. Baker  
S. V. Yarnell  
C. E. Reed  
L. P. Miller  
F. W. Wilson  
S. W. Smith  
B. A. Weil  
C. W. Shaud  
J. R. Walters  
J. R. Leber  
R. W. Culhane  
L. L. Lockart  
R. L. Troup  
A. R. Blair  
N. E. Deimler

F. Krow  
G. L. Ansalvich  
G. D. Miller  
W. S. Smith  
C. C. Lamb  
R. L. Shank  
R. H. Emanuel  
R. F. Zeiders  
G. F. Grindrod  
E. G. Buhrman  
J. D. DiPaolo  
L. W. Bostwick  
M. G. Weldon  
M. E. Kephart  
H. W. Frey  
H. T. Delauney  
W. C. Brown, Jr.  
C. L. Longenecker  
R. F. Carter

R. L. Salzman  
M. F. Mouery  
S. E. Raup, Jr.  
W. J. Smith  
J. H. Shank  
F. H. Reidlinger  
P. R. Mummert  
E. K. Shrader  
C. D. Fuhrman  
R. J. Smith  
J. L. Nickoli  
D. Deckard  
H. E. Aikey  
R. Shue  
N. W. Manning  
R. R. Kaley

T. E. Smith  
F. J. Basile  
C. H. Sourbeer  
C. E. Grove  
J. E. Liebig  
G. R. Largent  
R. G. Kilheffer  
C. G. McSparran  
W. H. Joy  
R. G. Hamaker  
W. E. Norton  
J. H. Spohn  
W. H. Pickel  
R. M. Gambler  
J. L. Gambler  
G. K. Peters

H. J. Mathiot  
F. V. Early  
J. E. Largent  
R. R. Herr  
K. M. Stewart  
J. W. Hoover  
D. W. Stoner  
H. E. Koch  
A. I. Robinson  
I. S. Roath  
L. B. Phillips  
W. C. Brown III  
P. E. Knuth  
W. G. Carlson  
W. A. Zimmerman

**OPINION OF BOARD:** This case involves the same Carrier and Agreement and presents the same issues, relative to hourly and daily rated employees, as in Award No. 14730. A different Organization is Petitioner herein; but, it is party to the Agreement.

Carrier argues that this case is distinguishable from Award No. 14730 because the following statements in its Submission were not rebutted by the Organization:

"Advice was received from Employees to the effect that Block Operators would not cross picket lines in order to perform this service. It is, therefore, a reasonable conclusion that in the circumstances existing during the period in question the Claimants were not available for service if it were there to be performed."

It says this is proof that the Claimants were not available. We find no evidence in the record that this defense was proffered on the property. We have held and now hold that only issues raised on the property and found in the record made on the property are subject to our consideration. We may not engage in speculation or presumption as to what occurred on the property during the processing of a dispute. Article V of the August 21, 1954, Agreement which requires the Carrier to give in writing its "reasons" for denial of a claim within time limitations would be meaningless if the Carrier could introduce further "reasons", for the first time, in its Submission.

We find Award No. 14730 apposite and for the reasons stated therein we will sustain the instant Claim.

**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 Carrier violated the Agreement.

**AWARD**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

**ATTEST: S. H. Schulty**  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of October 1966.