

Award No. 15222
Docket No. TE-13918

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

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

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Minneapolis and St. Louis Railway, that:

1. Carrier violated an Agreement between the parties when in changing the assigned rest days of L. Abrams, Jr., regular assigned incumbent first shift telegrapher-clerk at Mason City, Iowa, it suspended him from work on January 3 and 4, 1962.

2. Carrier shall, because of the violation set out in paragraph 1 hereof, compensate L. Abrams, Jr., for two (2) additional days at the straight time rate.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties hereto, effective September 1, 1955, and as amended. Copies of said Agreement are on file with your Board and are, by this reference, made a part hereof.

L. Abrams, Jr., hereinafter referred to as claimant, was, prior to the incident which precipitated this dispute, the regularly assigned occupant of the first shift telegrapher-clerk's position at Mason City, Iowa. As such he had assigned hours of 6:00 A. M.-2:00 P. M.; a work week of Monday through Friday, Saturday and Sunday rest days.

The confronting dispute arose out of Carrier's change of assignment on the agent's position at Trimont, Iowa. Prior to January 3, 1962, the agent's position at Trimont had a work week of Monday through Friday, rest days Saturday and Sunday. Subsequent to this date, it was changed to a six day assignment with rest days of Sunday and Monday, and it was necessary to furnish relief for the agent on Monday. It was for this reason that a new relief position was created at Mason City resulting in the change of rest days for the first shift (M&StL) telegrapher at Mason City, Iowa.

As a result of this rearrangement of rest days on the M&StL positions in Mason City, effective with the establishment of the new rest day relief posi-

tion thereat, claimant's work week and rest days were changed to Friday through Tuesday, with Wednesday and Thursday rest days. Thus, in claimant's work week which began on Monday, January 1, 1962, he worked that day and Tuesday, January 2, 1962, after which he was forced by reason of Carrier's unilateral change of work weeks and rest days to suspend work on his assignment on Wednesday, January 3, and Thursday, January 4, 1962. Carrier's failure to meet the guarantee provisions of Rule 6(a) with respect to making the claimant whole for the two (2) days' pay lost by reason of such change of rest days, brings this dispute to your Honorable Board.

Attached hereto and made a part hereof as ORT Exhibits 1 through 12, are copies of all relevant letters exchanged between the parties during the handling of this dispute on the property.

The foregoing chronology attests that the subject matter in dispute in this appeal has been handled on the property in the manner prescribed by law (Railway Labor Act) and the rules of procedure (Circular No. 1) of your Honorable Board but failed of settlement. The dispute is, therefore, appealed to your Honorable Board for adjudication.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Prior to January 3, 1962 claimant L. Abrams, Jr. was assigned as first trick telegrapher-clerk Mason City, Iowa five days per week, Mondays through Fridays with Saturday and Sunday as rest days. By written notice dated December 28, 1961, effective January 3, 1962 a new work week for claimant was established Fridays through Tuesdays with rest days Wednesday and Thursday.

Beginning January 1, 1962 therefore claimant actually worked and/or was compensated during the month of January in accordance with the following schedule:

Mon	Tues	Wed	Thurs	Fri	Sat	Sun
1(H)	2(W)	3(R)	4(R)	5(W)	6(W)	7(W)
8(W)	9(W)	10(R)	11(R)	12(W)	13(W)	14(W)
15(W)	16(W)	17(R)	18(R)	19(W)	20(W)	21(W)
22(W)	23(W)	24(R)	25(R)	26(W)	27(W)	28(W)
29(W)	30(W)	31(R)				

NOTE: (H) — Holiday pay
(W) — Worked
(R) — Rest day

Claim was appealed to the Carrier's Director of Personnel by letter dated March 28, 1962, a copy of which is attached as Carrier's Exhibit A. This claim was denied by the Carrier by letter dated May 1, 1962, a copy of which is attached as Carrier's Exhibit B.

(Exhibits not reproduced.)

OPINION OF BOARD: We are confronted here with a dispute arising out of Carriers change of assignment of Claimant's work week and rest days at Mason City, Iowa.

Prior to January 3, 1962, Claimant's work week was from Monday through Friday with rest days on Saturday and Sunday. There was a re-arrangement of Claimant's work week and rest days, the work week being from Friday through Tuesday with Wednesday and Thursday rest days. Thus in Claimant's work week which began on Monday, January 1, 1962, he worked that day and on Tuesday, January 2, after which he was forced by reason of Carrier's unilateral change of work week and rest days to suspend work on his assignment Wednesday, January 3, and Thursday, January 4. It is his contention that he was deprived of filling his position on those two work days and, consequently, Carrier failed to meet the guarantee provisions of 6(a) of the Agreement with respect to making Claimant whole for the two days' pay lost.

Carrier contends that there is no dispute in this case but that the work week and rest days of the position occupied by Claimant Abrams were properly changed, that Claimant has sustained no actual loss; that he was compensated for 40 hours of work during the "work" week and experienced no loss of work as the result of the change made in the rest days of his assignment.

There have been a number of awards sustaining claims under the same or similar guarantee rules among which are Awards 7324 (Larkin), 8144 (Elkouri), 8103 (Guthrie), 10786 (Mitchell), 11474 (Moore), 14116 (Hall) and many others.

We can see no reason for a departure from these awards and the Claim will be sustained.

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

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1967.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.