



Award No. 15708
Docket No. TE-15362

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

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

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

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

1. Carrier violated the Agreement when it improperly deferred the vacation date of Telegrapher O. E. Godsey.
2. Carrier shall compensate O. E. Godsey at the rate of time and one-half for each date worked July 16 to 27, 1963 (both inclusive), account working during vacation, plus eight hours at the straight time rate each date during the same period as vacation allowance.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties effective December 1, 1934, as amended and supplemented, is available to your Board, and by this reference is made a part hereof. The National Vacation Agreement of December 17, 1941, as amended, is the agreement primarily involved in the instant dispute.

At the time cause for this claim arose, O. E. Godsey was regularly assigned to the first trick clerk-telegrapher position at Greenville, Texas, 6:30 A. M. to 2:30 P. M., with assigned rest days of Sundays and Mondays. He had qualified for ten working days of vacation with pay for the calendar year of 1963 and was scheduled to begin this vacation on January 16, 1963, by agreement between the Carrier and the Organization, in accordance with Article 4 of the Vacation Agreement. On January 12 (four days prior to the starting date of his vacation) he was notified that he would not be relieved for his vacation starting January 16, 1963.

Article 5 of the Vacation Agreement reads:

"5. Each employee who is entitled to vacation shall take same at the time assigned, and, while it is intended that the vacation date designated will be adhered to so far as practicable, the man-

A.M.-2:30 P.M., rest days Sunday and Monday. He worked the required number of years prior to 1963 to qualify for 15 days' vacation in 1963. He was assigned 10 days' vacation July 16 to July 27, inclusive, and 5 days' vacation later in the year.

On July 3, 1963, Agent M. A. Rickard became suddenly ill and the seriousness of his illness could not be immediately determined. Agent Rickard has the same working conditions as supervisory agents, and when he is absent because of illness or vacation, the regular force working in the office carry on their usual duties without direct supervision of the agent. A check with the doctors a few days later developed the illness would be of an indefinite duration. Assistant Superintendent Haley talked with the station force and explained that on basis of information then available Mr. Rickard would be absent for a substantial time, and that the force would continue to work on the same basis for remainder of July at least. As an extra telegrapher with sufficient experience to handle the work without direct supervision of the agent under the conditions then existing was not available, Mr. Haley advised Claimant Godsey it would be necessary that he work his vacation unless he would prefer to postpone it until a later date.

Mr. Godsey stated he had made no vacation plans, and requested his vacation be postponed until a later date when he could actually take time off from work. He requested that it be rescheduled for September 3, if possible. Mr. Haley advised him he would handle with the General Superintendent's office to see if the rescheduling of his vacation at that time could be arranged.

Later, on the same day, July 12, Mr. Haley discussed Claimant Godsey's request with the General Superintendent's office and it was determined that the rescheduling of his vacation to September 3-14, 1963, could be arranged. Claimant Godsey was requested to confirm such request, which was done July 25, and reads as follows: (Exhibit No. 3)

"This will confirm my conversation with Mr. Haley and Mr. Holden's office July 12th, in which I requested my vacation be postponed from July 16th and re-scheduled for September 3rd, 1963."

Claimant Godsey was allowed the ten days' vacation September 3-14, inclusive.

The General Chairman filed claim for time and one-half rate for each day worked by Claimant Godsey during the period July 16 through July 27, plus 8 hours' vacation allowance at straight time rate.

Claim was denied.

Exhibits 1 to 14, inclusive, are attached hereto and made a part hereof.

The applicable schedule agreement is that with The Order of Railroad Telegraphers effective December 1, 1934, as amended by Supplemental Agreement covering 40 hour week effective September 1, 1949, as well as the Vacation Agreements of December 17, 1941 and August 21, 1954, copies of which are on file with the Board.

OPINION OF BOARD: Claimant's vacation was scheduled to begin July 16, 1963. On July 12, 1963, Carrier notified Claimant that it would be

necessary that he work his vacation or postpone it. Claimant stated that he had made no definite plans and requested the postponement. On July 25, 1963, Claimant confirmed this arrangement by letter. (R-24 and 25.)

After considering the entire record, we are unable to find a violation of Article 5 of the National Vacation Agreement. Claimant elected to postpone his vacation and thereby waived the required notice of deferment.

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 did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1967.