



Award No. 16512

Docket No. TE-15538

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Milwaukee, St. Paul and Pacific Railroad, that:

1. Carrier violated the terms of an Agreement between the parties hereto when it failed and refused to compensate G. E. Kuni, regular occupant of relief position, for two (2) calls for each date February 1 and 8, 1964, for service performed on the agent-operator position Melstone, Montana.

2. Carrier shall, because of the violations set out above, compensate G. E. Kuni for a call for each date February 1 and 8, 1964, under the provisions of Rule 9(c) and in addition for a call on each date February 1 and 8, 1964, under the provisions of Rule 9(c) and in addition for a call on each date February 1 and 8, 1964, under the provisions of Rule 1(c).

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, hereinafter referred to as Carrier, and its employes represented by The Order of Railroad Telegraphers, hereinafter referred to as Employes and/or Organization, effective September 1, 1949, and as amended. Copies of said Agreement are available to your Board and are, by this reference, made a part hereof.

The material and relevant facts in this case are not in issue. G. E. Kuni, hereinafter referred to as claimant, was, on the date involved, the regular occupant of a rest day relief position. His assignments were as follows:

Melstone, Mont.	3rd shift opr.	12:00 Mid.- 8:00 AM	Thurs-Fri
Melstone, Mont.	Agent	8:00 AM- 4:00 PM	Saturday
Melstone, Mont.	2nd shift opr.	4:00 PM-12:00 Mid.	Sun-Mon

Rest Days: Tuesday and Wednesday.

CARRIER'S EXHIBIT B - Letter written by Mr. Amour to Mr. Waters under date of September 29, 1964.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was called back to duty to prepare train orders on 1 and 8 February, 1964. He was compensated under Rule 9(c) but claims further compensation under the second paragraph of Rule 1(c) for the reason that he was directed to leave the train orders at a specified place to be picked-up by the persons to whom they were addressed. Said paragraph of Rule 1(c) reads as follows:

"If instructed by the train dispatcher or other authority to clear train or trains before going off duty, leaving train orders or clearance cards in some specified place for those to whom addressed, employes shall be paid a call as provided in Rule 9 for each train cleared."
(Emphasis ours.)

A perusal of the quoted rule discloses that the parties intended that in order for same to be effective that Claimant must have been on duty and before going off duty instructed to clear a train or trains, leaving train orders in a specific place for those to whom addressed. In the instant case, Claimant was not "... instructed . . . to clear train or trains . . . before going off duty." He was called back under the Standard Train Order Rule for the very purpose of making the train orders. The purpose of the rule is to protect employes from losing a call when going off duty and on the other hand permitting Carrier to provide for other than hand delivery. Where Claimant was given a call for the specific purpose of clearing trains the compensation under the hereinbefore quoted rule is not applicable.

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 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 26th day of July 1968.

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