

Award No. 16850
Docket No. TE-15263

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard E. Perelson, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Duluth, Missabe and Iron Range Railway, that:

1. Carrier violated the Agreement between the parties when it failed and refused to compensate extra telegrapher H. T. Olson for travel time between Missabe Junction and Iron Junction, Minnesota, November 19, 1963.

2. Carrier shall now compensate H. T. Olson one (1) hour travel time, at the straight time rate, for traveling Missabe Junction Tower to Iron Junction, November 19, 1963.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective January 1, 1953, with its supplements and amendments, are available to your Board and by this reference are made a part hereof.

At time of claim, H. T. Olson was an extra employe residing at Aurora, Minnesota. However, for deadhead and travel time purposes, his headquarters were considered to be at Iron Junction, Minnesota. On November 6, 1963, Claimant received the following instructions from Carrier's Chief Train Dispatcher:

"Iron Junction
November 6, 1963

To: J. Tomlyanovich and H. T. Olson at Miss. Jct. Tower.

Account Tomlyanovich on vacation H. T. Olson will protect relief position at Miss. Junction Tower.

Effective Saturday, November 9th until further advised.

Miss. Junction will show Tomlyanovich on payroll for 15 days' vacation effective Saturday, November 9th.

/s/ R. E. J."

handling of the claim on the property are attached hereto and marked as Carrier's Exhibit B.)

(Exhibits not reproduced.)

OPINION OF BOARD: The Claimant was an extra employe of the Carrier. His headquarters, for deadhead and travel time purposes, were considered to be at Iron Junction, Minnesota.

Under date of November 6, 1963, the following communication was addressed to the Claimant:

"Iron Junction
November 6, 1963

To: J. Tomlyanovich and H. T. Olson at Miss. Junction Tower.

Account Tomlyanovich on vacation H. T. Olson will protect relief position at Miss. Junction Tower.

Effective Saturday, November 9th until further advised.

Miss. Junction will show Tomlyanovich on payroll for 15 days' vacation effective Saturday, November 9th.

/s/ R. E. J."

The Claimant, in accordance with the instruction contained in the communication of November 6, 1963, proceeded to and did protect the relief assignment at Missabe Junction Tower commencing with Saturday, November 9th, 1963, through Tuesday, November 19, 1963.

Under date of November 19, 1963, the following communication was addressed to the Claimant:

"Iron Junction
November 19, 1963

To: H. T. Olson at Miss. Junction Tower

L. C. Carlson will displace H. T. Olson on Relief position at Miss. Junction Tower effective Wednesday, November 20th.

/s/ R. E. J."

We find nothing in the record to indicate that another vacancy existed. The Claimant, after receiving the communication of November 19th, 1963, went to his home.

Under date of November 30, 1963, Claimant presented to the Carrier a claim for one hour pay, in the sum of \$2.65, to cover his travel time, at straight time rate, by reason of his being required to travel from Missabe Junction Tower to Iron Junction, on November 19, 1963. His claim was denied by the Carrier on the ground that he "did not complete the assignment."

This claim has been handled in the usual manner up to and including the highest officer of the Carrier and has been denied.

The Claimant claims a violation of paragraph 3 of Article 19 of the Agreement between the parties which became effective, as revised, on December 1, 1962. It reads as follows:

"3. Extra Employees who are required to work at a point other than their headquarters point and are required to travel outside the environs of the city or town in which their headquarters is located, shall be paid travel time traveling to the location of the extra assignment and from the location of the extra assignment to headquarters after completion of such assignment, on the following basis:

(a) An employee who travels 35 miles or less from his headquarters to an extra assignment; between extra assignments, or from an extra assignment to his headquarters will receive no compensation for travel time.

(b) An employee who travels 36 miles or more from his headquarters to an extra assignment, between extra assignments, or from an extra assignment to his headquarters shall be paid one hour travel time at the straight time rate of pay of the position to which the employee has traveled to fill."

Carrier denies any violation of the Agreement.

Carrier in support of its position inserts in the record a statement by its Supervisor, Payroll Accounting Department. This statement was neither submitted nor considered when this dispute was being handled on the property. It cannot and will not be considered by the Board at this time.

The sole issue to be determined is whether or not the Claimant "did" or "did not" complete his assignment as contemplated by the provisions of Article 19 of the Agreement, as revised as of December 1, 1962.

We have carefully read and examined the record in this dispute. We can come to but one conclusion and that is that the Claimant did complete his assignment and therefore is entitled to have his claim being sustained by this Board.

The contention of the Carrier that the Claimant "did not complete the assignment" is without merit. It is fallacious reasoning on the part of the Carrier, when we consider the language of the communication of November 6, 1963. The communication of November 6, 1963, does not set forth the length of time that the Claimant was to protect the relief position. All that it did was to require the Claimant to protect the relief position at Miss. Junction Tower "Effective Saturday, November 9 UNTIL FURTHER ADVISED."

(Emphasis ours.)

It is evident from the language quoted that the Carrier reserved unto itself the length of time Claimant was to protect the relief position. He was to

stay there until he was advised by the Carrier that his services were no longer needed at Miss. Junction Tower.

We hold that when the Carrier, under date of November 19, 1963, advised the Claimant that he was being displaced, his assignment came to an end and was complete.

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 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 20th day of December 1968.