



Award No. 17254

Docket No. MW-17839

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John B. Criswell, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it made unauthorized and improper deductions from the wages earned by Drawbridge Operator S. R. Raymond in the payroll weeks ending February 4 (\$20.77) and February 11 (\$31.16), 1967. (Railroad Docket No. 10708)

(2) Drawbridge Operator S. R. Raymond now be reimbursed in the amount of \$51.93 because of the violation referred to in Part (1) of this claim."

EMPLOYEES' STATEMENT OF FACTS: The factual situation involved in this dispute is partially described in a letter of appeal reading:

"June 12, 1967

Mr. J. J. Duffy, Director
Labor Relations & Personnel
New York, New Haven & Hartford Railroad Co.
General Office Building
New Haven, Connecticut 06506

Dear Sir:

I hereby appeal to you, decision rendered May 24, 1967 by Superintendent J. A. Gregg, denying our claim of March 6, in behalf of regular rostered Drawbridge Operator S. R. Raymond, headquartered at New London, Connecticut.

Said claim being for full reimbursement of all monies the Carrier arbitrarily deducted from wages he earned in the payroll weeks ending February 4 and February 11, 1967 and/or subsequent payroll weeks, in direct violation of our current effective Agreement with the Carrier.

The regular position of S. R. Raymond as Drawbridge Operator at New London, Conn., by right of bid is Relief Position No. 2, which covers the following assignment:

By mutual agreement the time limits in the handling of this claim on the property had been extended.

Copies of subsequent correspondence—General Chairman Christensen's letter of October 13, 1967 and reply dated October 19, 1967—are attached as Carrier's Exhibits "C" and "D" respectively.

Copy of Agreement, dated September 1, 1949, and of all supplements and amendments thereto, between this Carrier and the Brotherhood of Maintenance of Way Employees is on file with this Board and are by reference made a part hereof.

(Exhibits not reproduced)

OPINION OF BOARD: Claimant is a regularly assigned Relief Drawbridge Operator with the work week of Sunday through Thursday and rest days of Friday and Saturday. On Tuesday, December 27, 1966, Claimant was directed to temporarily assume duties of a Drawbridge Operator whose work week was Tuesday through Saturday, and rest days of Sunday and Monday.

The question is whether Claimant should be compensated according to his regular assignment, or by the assignment to which he was moved by the Carrier. His regular assignment, though not filled, was not abolished.

He was moved to meet the need and convenience of the Carrier and because of no exercise of rights or desire of his own. His replacement of the Operator who was away was temporary and he lost none of the rights to his regular assignment.

Carrier contends it could make the involuntary rearrangement in Claimant's position and compensate him according to the new and temporary assignment. We find no rule in the Agreement which allows such action.

Therefore, we find that Claimant should have been paid at the time and one-half rate on December 30, 31 and January 6, 7 and accordingly should have received eight hours pro rata pay for the holiday on January 2.

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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of June 1969.