

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19498
Docket Number CL-19423

Thomas L. Hayes, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(The Denver and Rio Grande Western Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7005)
that:

1. Carrier violated rules of the current Clerks' Agreement when it failed to call Mrs. Freida Ballard, Junior Rate Clerk, for overtime on January 24 and 25, 1970.

2. The Carrier shall now be required to compensate Mrs. Ballard at the punitive rate for eight hours on January 24 and 25, 1970, a total of sixteen hours, account this violation.

OPINION OF BOARD: On Saturday and Sunday, January 24 and 25, 1970, it was necessary for the Carrier to require a clerk to work overtime. The record indicates that Carrier tried to reach the Claimant for this work on January 24 but her telephone was not answered and Carrier asked the regular occupant of the position to perform the necessary work.

The record contains no evidence that Carrier attempted to telephone the Claimant on January 25, 1970 with respect to the overtime work to be performed on that date.

After review of all the facts in the record, the Board is persuaded that Carrier made a reasonable effort to reach the Claimant on January 24, 1970 and called another clerk because the work was urgent. However, additional attempts should have been made on January 25, 1970 to contact the Claimant to perform the work required on that date but such attempts were not made.

We, therefore, hold that Carrier was not in violation of the rules of the Clerks' Agreement with respect to the overtime work on January 24, 1970 but was in violation of the Agreement for failure to make a reasonable effort to reach the Claimant on January 25, 1970. On the basis of the evidence, the Claimant should be allowed three (3) hours pay at the overtime rate for January 25, 1970.

In concluding, the Board would point out that the procedural objections raised by Carrier appear to be without merit and Carrier must have held the same view on the property because it made an offer to Claimant which she did not accept.

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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, in part, to the extent and in the manner set forth in this Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 17th day of November 1972.