

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20150

Docket Number TE-20133

Irving T. Bergman, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station Employees (formerly Transportation-  
( Communication Division, BRAC)

PARTIES TO DISPUTE: (

(Maine Central Railroad Company  
( Portland Terminal Company

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Portland Terminal Company, TC-5870, that:

Carrier violated Article 9 of the January 1, 1951 Agreement when they required claimant to perform work at third trick Rigby Telegraph Office on September 3, 1971, and also violated Article 15 when claimant was required to move from his regular assignment to cover this assignment at third trick Rigby Telegraph Office and violated Article 4 when claimant was not paid the days pay provided for on his regular assigned hours at his regular assigned location. Carrier shall be required to compensate claimant (B.L. Corkrey) eight hours pro rata rate Tower Two in addition to compensation paid him for working third trick Rigby Telegraph Office for this violation.

OPINION OF BOARD: Claimant was regularly to work the third trick at Tower Two. When he reported for work at his regular location, Carrier moved claimant to the third trick at the telegraph office to cover the vacancy created when the Carrier used the regularly assigned employe as a dispatcher to cover a vacancy in that position. The Carrier contended that this was an emergency because an available spare man was not qualified to cover the vacancy created and a regular man on his rest day was called but did not respond. The Carrier also argued that it maintained a sufficient number of spare men to meet the reasonable demands of the service consistent with the opportunity to provide spare men with enough work to earn a living. The Organization's position is that the facts do not add up to an emergency as provided by the Rules.

Article 4 provides in part that: "A regularly assigned employe shall receive one day's pay within each twenty-four (24) hour period, according to position occupied or to which entitled, if ready for service and not used,--."

Article 15 provides in part that: "A regularly assigned employe will not be required to perform service on other than his position except in an emergency."

Article 35 provides in part that: "Sufficient spare employes will be supplied to meet all reasonable demands."

A number of prior Awards have reached the conclusion expressed in Award 17737, that: "The nonavailability of personnel for various reasons--is a constant, never ending situation, which must always be anticipated by Carrier."

An emergency is defined as an unforeseen combination of circumstances. The facts of this case do not meet the requirements of the definition.

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

The Carrier violated the Agreement.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1974.