

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21944
Docket Number CL-21863

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8230, that

1. Carrier violated the Agreement between the parties on July 4, 1973 (Independence Day), when it failed to allow incumbent of 2nd trick Operator position at WJ Tower, Wilsmere, Delaware, to work, and diverted the work of the position to the 2nd trick Operator position at BA Tower, Baltimore, Maryland.

2. Carrier shall, as a result, compensate Mr. M. D. Harryman, incumbent of 2nd trick Operator position at WJ Tower, Wilsmere, Delaware, eight (8) hours' pay at overtime rate for July 4, 1973.

OPINION OF BOARD: The Claimant was the regularly assigned Operator on the 3:00 p.m. to 11:00 p.m. shift at WJ Tower, and was "laid in" on the July 4, 1973 holiday.

The crew of a freight train approaching Wilsmere Yard contacted the Operator at BA Tower at 3:01 p.m. July 4, 1973, for information from the Train Dispatcher relative to yarding a train at Wilsmere Yard.

The Train Dispatcher gave instructions to the crew of the freight train, which were relayed by the Operator at BA Tower.

The Claimant urges that he would have received the call from the freight crew and would have relayed the instructions of the Train Dispatcher if he had not been "laid in" because of the holiday.

Under the particular facts presented in this case, the claim should be allowed.

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:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March 1978.

