

SPECIAL BOARD OF ADJUSTMENT NO. 117

ORDER OF RAILROAD TELEGRAPHERS
and
MISSOURI PACIFIC RAILROAD COMPANY

Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad that:

1. Carrier violated the agreement between the parties when it failed and refused to properly compensate D. H. Magness for November 25, 1954, (a holiday).
2. Carrier shall be required to compensate D. H. Magness for 8 hours at the time and one-half rate of pay applicable to the second shift Telegrapher-Clerk position, Batesville, Arkansas, for November 25, 1954, (a Holiday).

OPINION OF BOARD: This claim concerns request of claimant for eight hours at punitive rate for work allegedly improperly performed during the assigned hours of his regular assignment for November 25, 1954, such day being a holiday within the meaning of the effective agreement. Claimant filled a regular assignment on second shift of a 7-day position, which included the Holiday in question as a part thereof, with assigned hours 1:00 p.m. to 9:00 p.m. On the day prior to the date in question, the claimant here received telegraphic notice that he was not to cover his assignment on the day following.

This claim arises by virtue of the fact that certain work was allegedly performed which was a part of claimant's assignment and performed during the hours thereof by the occupant of the first trick telegrapher position at the station in question.

It is asserted by the Organization that Rule 8, Section 1(e-1), requires that all positions have assigned hours of service, which in this instance included those hours of 1:00 to 9:00 p.m., including Sundays and Holidays, and that 36-hour notice was required to change the starting time of an assignment, and that under Rule 9 the claimant here was entitled to perform the work of the position, and that he was thus improperly denied his contractual right to perform such work, particularly in light of the fact that the Carrier here was unable to completely blank the claimant's position.

The respondent here asserts that this claim is not valid for the reason that the claimant here was given advance notice that his services would not be required on the holiday in question, and that he received holiday pay at the pro rata rate on a holiday when no services were actually performed by him, as required by Article II, Section 1, of the Agreement of August 21, 1954.

It was pointed out that Rule 8-1(e-1) refers to starting time of a position and that in cases where, as here, elimination of all work on holiday does not have the effect of changing the assigned starting time of a position.

It is contended that a holiday is a day on which the Carrier may or may not, as its requirements demand, use an employe on his regular assignment.

The respondent further contended that the work performed by the first trick telegrapher was not work that was ordinarily performed by the occupant of the second trick position; thus, it could not be said to belong to the assignment of the second trick position which was held by the claimant here.

The work in question here was performed on a holiday. The position which the claimant filled was a 7-day position, including Sundays and Holidays. Where the work week of an assignment includes a holiday, the holiday may be blanked. See Rule 8, Section 1(f). A holiday is a day which may 'or may not be assigned, depending on the desires and needs of the Carrier. An occupant of a position is required to report and cover his assignment on a holiday unless otherwise notified not to do so, but there is no requirement in the rule that an employe be given a specified number of hours' notice not to cover his position on a holiday.

Rule 8-1(e-1) has to do with the starting time of a position--it does not pertain to holidays.

Here, the claimant was affirmatively notified not to cover his position, thus blanking his assignment for the day. The work complained of here was not work of the assignment, even though it was performed during the period which included the assigned hours of claimant's position. The work in question (which was due to a delay in the train arrival) was not work which required the Carrier here to call the claimant to perform, nor was it work which could not properly be performed, in this particular instance and under the facts of record here, by the occupant of the first trick telegrapher's position. Insofar as he, the first trick telegrapher, was concerned, it was work which the Carrier could properly assign and require him to perform on an overtime basis.

For the reasons stated, claim here is without merit.

FINDINGS: The Special Board of Adjustment No. 117, upon the whole record and all the evidence, finds and holds:

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 Special Board of Adjustment has jurisdiction over the dispute involved herein; and,

That the Carrier did not violate the effective agreement.

AWARD

Claim denied.



SPECIAL BOARD OF ADJUSTMENT NO. 117

Livingston Smith
Livingston Smith - Chairman

C. O. Griffith
C. O. Griffith - Employee Member

G. W. Johnson
G. W. Johnson - Carrier Member

St. Louis, Missouri
July 17, 1956