

Award No. 48  
Docket No. 48

MOP File 380-1631  
ORT File 1227

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 Rule 9, section 1, paragraph IV and Rule 10(c) of the agreement between the parties when on Sunday, August 7, 1955, it failed to properly compensate H. A. Hirsch for service performed on his assigned rest day of position No. 9 in "GM" Relay Office, St. Louis.
2. Carrier shall now be required to compensate H. A. Hirsch the difference between the 8 hours at time and one-half which he was paid and the amount he was entitled to for the work performed on Sunday, August 7, 1955.

OPINION OF BOARD: This claim concerns an alleged violation of Rule 9, Section 1, paragraph IV, and Rule 10(c), wherein the respondent here failed to compensate claimant for service performed on an assigned rest day.

Claimant was regularly assigned to a 5-day position with hours 9:00 a.m. to 5:00 p.m., with Saturday and Sunday as rest days. On one of his rest days, namely, August 7, 1955, claimant here was called to fill the position of Assistant Chief Operator with assigned hours 8:00 a.m. to 4:00 p.m.

It is alleged that the work performed between 8:00 a.m. and 9:00 a.m. was outside the hours of the claimant's regularly assigned position and that he is presently due what in the substance amounts to time and one-half at the punitive rate for the one hour thus performed.

The Organization asserts that this claim is valid by virtue of the fact that Rule 9, Section 2, specifically states that when employees are required to perform service on a day which is an assigned rest day within the hours of their assignment, they shall be paid a minimum of 8 hours at the punitive rate within the meaning of paragraph IV of Section 1 of Rule 9 and, when called as here to perform work not continuous with their regular rate will be compensated at the overtime rate as provided for in Rule 10(c).

The respondent here asserts that the compensation paid the claimant, namely, 8 hours at the punitive rate, for work performed on Sunday, a rest day of his week-day assignment, was properly made within the meaning of paragraph V, Section 1, Rule 9.

The respondent further asserted that those sections of Rule 9 relied upon by the Organization in support of their contention that the claimant here

was improperly compensated for the work so performed necessitated a combining of rules in a manner which was not contemplated by the parties and was contrary to the clear intent of the rules which were adopted by the parties as a result of Mediation Agreement Case No. A-2070.

It was further contended that paragraph V of Section 1 of Rule 9 is here applicable and that the claimant here was properly compensated for work on one of his assigned days of rest when paid for 8 hours at the punitive rate.

It is the opinion of the Board that the Organization here attempts to divide the work performed into two parts, namely, that performed between the hours of 8:00 a.m. and 9:00 a.m. and the other part between 9:00 a.m. and 4:00 p.m., and seek compensation for the work performed and here divided into the two named parts under two different rules

If this construction and application is placed upon the agreement under the prevailing situation, the effect would be, in the opinion of the Board, to nullify the provisions of paragraph V, Section 1, Rule 9, and would result in the payment of more than the amount required to be paid for such service within the meaning of paragraph V of Rule 9.

The Board is of the opinion that paragraph V of Rule 9 requires that when an employee is required to work on one of his assigned rest days, as here, he should be compensated for such service at the punitive rate of time and one-half, with a minimum of 8 hours. The claimant here was so compensated, for which reason the claim 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 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 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 31, 1956