

Award No. 51
Docket No. 51

MOP File 380-1467
ORT File 1168-54

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 in effect between the parties in this dispute when it refused to pay L. F. Smith 8 hours at pro rata rate for time lost in transferring from Night Chief-Leverman position, Falls City, Nebraska, to accept bulletined position of Manager Relay Office, Coffeyville, Kansas, after July 23, 1954.
2. Telegrapher L. F. Smith, Coffeyville, Kansas, now be paid a day's pay of 8 hours at pro rata rate for time lost after July 23, 1954, in transferring from position of Night Chief-Leverman, Falls City, Nebraska, to accept bulletined position of Manager, Relay Office, Coffeyville, Kansas.

OPINION OF BOARD: This claim concerns the allegation by the Organization that the claimant here was not properly paid for 8 hours at the pro rata rate account time purportedly lost in transferring from the position of Night Chief-Leverman at Falls City, Nebraska, to accept the duly bulletined position of Manager, Relay Office, Coffeyville, Kansas, on a date not specifically identified but occurring after July 23, 1954.

The Organization further pointed out that the transfer of the claimant from one position to another was to be effective at 10:00 a.m. on July 16, 1954, under and by virtue of notification from the respondent, but that subsequent to such notification the claimant asked for and obtained sick leave after his tour of duty on July 23, 1954, at which time he proceeded to St. Louis with the intention of receiving medical treatment, and that, as a result of a conference with Organization and company officials, he was advised to make effective an actual physical displacement on the Coffeyville assignment prior to his receiving further medical treatment, with which suggestion the claimant complied.

The Organization pointed out that the claimant proceeded to his destination of Coffeyville via Kansas City on Thursday, July 29, and arrived at Coffeyville at 1:30 p.m. on July 30, such hour of arrival being too late to permit him to work his assigned position.

The Organization further pointed out that he sat in with the Manager then working the Coffeyville position for the balance of that day and, on the day following, July 31, he assumed the duties and responsibilities of the Manager's position at Coffeyville, which entitled him to pay for 8 hours at the pro rata rate for the time lost in transferring from his position of Night Chief-Leverman at Falls City, Nebraska, to accept his new assignment as Manager, Relay Office, Coffeyville, Kansas, within the meaning of Rule 19(b), which, in essence,

provides that regularly assigned employees transferred by order of the company to accept a bulletined position will be paid a maximum of 8 hours each calendar day for time lost in transferring from one station or position to another station or position.

The respondent here pointed out that the claim here is not made for time lost on any specified date and, further, that the claim is not valid within the meaning of Rule 19(b) since said rule is applicable only in those cases where time is lost by an employee due to the Hours of Service Act or for time lost checking in or out of a position as a result of displacement caused by force reduction.

The respondent here took the position that the claimant was not transferred by order of the company but that such transfer was of the claimant's own accord and that no time was here lost checking in or out of the position at Coffeyville and, further, that Saturday, July 24, would have been a rest day of the claimant's position at Falls City.

The Carrier further pointed out that a review of the facts surrounding the negotiation of Rule 19(b) clearly reflects that such rule, as contained in the present effective agreement, did not adopt a request of the Organization for language which would have made claims such as those with which we are here confronted compensable.

The question before the Board here is whether or not the language of Rule 19(b) provides for the payment of a maximum of 8 hours in this case for time lost in transferring from one position to another.

The pertinent rule here, that is, 19(b) provides as follows:

"Regular assigned employees transferred by order of the company, employees transferred by order of the company to accept a bulletined position, employees displaced in force reductions who may be obliged to lose time incident to being checked out or in of position from and to which transferred, and employees displaced in force reductions who may be obliged to lose time incident to transfer from one position to another account Hours of Service Act, will be paid a maximum of eight hours each calendar day for time lost in transferring from one station or position to another station or position, except they will not be paid for such time as they may lose of their own accord."

The key word of the rule, that is, "transfer", pertains to the moving by an employee from one position or station to another by the order of the Carrier to accept a bulletined position. It cannot be questioned that the position with which we are here concerned was a "bulletined position" and that in going from one position to the other was an act done by the order of the Carrier.

We agree with and adopt this principle which was enunciated in Award 5474 of the Third Division of the National Railroad Adjustment Board, thus we are confronted with the question of whether or not the word "transferring", as contained in Rule 19(b), has solely to do with the physical act of going from one

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location to another or pertains to the checking of accounts and money when going from one position to another.

The rule, as written, cannot be construed as providing for the payment of "travel time" in going from one position to another. The record here does not disclose that the claimant was required to check out any accounts or money at Falls City, Nebraska, or that he was required to stand by while the prior occupant of the position which he was taking over at Coffeyville, Kansas, was checked out. Award 5474 and the settlement on this property relied upon by the Organization cannot be said to apply here by virtue of the fact that the claimant here is claiming 8 hours' pay for traveling from one location to another without the existence of other factual situations which were present in Award 5474. We cannot hold that Rule 19(b) provides for the payment of reparations arising out of no act other than the physical movement of an employe from one position or station to another position or station.

This 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 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 - Chairman


C. O. Griffith - Employee Member


G. W. Johnson - Carrier Member

St. Louis, Missouri
August 9, 1956