

SPECIAL BOARD OF ADJUSTMENT NO. 132

PARTIES: THE ORDER OF RAILROAD TELEGRAPHERS
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 75

STATEMENT OF CLAIM:

1. Carrier violated the agreement between the parties hereto when on February 22, 1954, it used agent-operator J. K. Edwards, Jr. regularly assigned agent-operator at Coal Run, Pennsylvania, on a call basis of three hours at punitive rate of pay at JM Junction, a point where there was no telegraph office, instead of paying Mr. Edwards eight hours at the rate of time and one-half because of his being used on a position other than his own on a holiday.

2. Carrier be required to compensate Mr. J. K. Edwards, Jr. for five additional hours' pay at the rate of time and one-half, that being the difference between what he was paid for February 22, 1954, and what he should have been paid.

FINDINGS:

The claimant was the regularly assigned agent-operator at Coal Run, Pennsylvania, assigned hours 8 A.M. to 4 P.M. On Washington's Birthday, (February 22, 1954) the office at Coal Run was closed because of the holiday. He was used from 8:30 to 9:30 P.M. at JM Junction, four miles from Coal Run. He was paid three hours at time and one-half, plus mileage and \$1 additional. He claims an additional five hours.

Under Article 22, Section 2, of the Agreement as modified to conform to the Forty Hour Week Agreement there are elaborate provisions concerning the method of payment for holiday pay. Sub-section II of Article 22, Section 2, provides as follows:

"Time worked on the holidays specified in I above, before or after the hours of the regular weekday assignment, shall be paid for in accordance with the overtime or the call provisions of Article 18."

It is contended by the employees that all of Section 2 of Article 22 refers to work either within or outside of the regular hours at the employee's station. That contention is not borne out by the provisions of the rule. Sub-section I, Paragraphs A(1), (2) and (3), deals with employees occupying positions requiring a Sunday assignment of the regular week day hours and with offices and towers where more than three employees covered by the agreement and of the same classification are on duty on the same shift Monday through Friday. Paragraphs A(1), (2) and (3) of that sub-section, generally speaking, clearly provide that employees in such categories who work on holidays within the hours of the regular week day assignment shall be paid at the rate of time and one-half, with a minimum of eight hours, whether the required holiday service is on their regular position or other work. Paragraphs B(1) and (2) of the same sub-section refer to employees other than those covered by Paragraph (A) and still confining their provisions to work within the hours of the regular week day assignment provide for a minimum payment of three hours, four hours and eight hours at time and one-half, depending on circumstances. Finally, Sub-section II provides as above quoted. It is readily apparent that the parties had service on work other than regular positions in mind when they agreed upon the wording of the article. They made it crystal clear that work on other

than regular positions performed by employees coming within the provisions of I(A) would qualify employees for a minimum of eight hours regardless of where they worked. Yet, when they came to provide for employees working outside the hours of the regular week day assignments, they made no distinction with respect to whether the employees held assignments requiring Sunday work or not. Nor did they specify that the work performed must be on their regular positions in order that their compensation be calculated on the call provisions of Article 18. The provision is apparently all inclusive. It is further worthy of note that Article 23(c) provides:

"Extra employees shall receive the basic rate of the position where they are relieving except as otherwise provided in Article 18(a); if required to work at unscheduled or non-telegraph positions they shall be paid not less than the minimum hourly rate for the employees of their class on the division where employed and the hours of service per day shall not be less than eight consecutive hours exclusive of the meal hour, subject to the overtime provisions of Article 18 (a)."

Thus it would appear that a distinction is made between regularly assigned men called to work outside their regularly assigned hours at unscheduled positions and extra men when so called to work. It follows that as the intent of the parties can be established from the wording of the Agreement the claimant should be compensated in accordance with the provisions of Article 22 - Section II. He was at least so compensated and accordingly the claim is without merit.

It should be clear that our Findings in no way intend to convey the impression that the claimant should have been assigned to this work as opposed to an extra man.

AWARD

Claims (1) and (2) denied.

s/ Francis J. Robertson
Francis J. Robertson
Chairman

s/ B. N. Kinkead
B. N. Kinkead
Employe Member, Dissenting.

s/ T. S. Woods
T. S. Woods
Carrier Member.

Dated at Baltimore, Maryland, this
26th day of April, 1957.