

SPECIAL BOARD OF ADJUSTMENT NO. 186

AWARD NO. 11

Organization's File

R-953

Carrier's File

TE-10-56

STATEMENT OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on The Denver and Rio Grande Western Railroad, that:

"1. Carrier violated the agreement between the parties when it improperly suspended E. R. Cesario from his regular assignment March 31 through April 13, 1956, used him on another position and failed and refused to pay him the proper compensation.

"2. Carrier now be required to compensate E. R. Cesario 8 hours at the straight time rate on each of the work days suspended, April 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 1956 and the difference between straight time and time and one-half on his regular assigned rest days March 31 and April 1, 1956."

FINDINGS: In Carrier's relay telegraph office "JN" at Grand Junction, Colorado, it maintained three shift around-the-clock telegraphic service, together with a fourth position assigned 9 AM to 5 PM. At the time the regular holder of the third shift position was off on vacation and the last available extra telegrapher was filling the vacation vacancy and all four telegraphers were working their rest days because no relief was available, the extra telegrapher, who was filling the vacation vacancy, showed up for his 11 PM assignment intoxicated and resigned from the service. In order to keep the relay office open, claimant Cesario was taken off the fourth assignment and used to replace the intoxicated employe on the 11 PM assignment.

Claimant was continued on that assignment from March 30 to April 13. The first day he was paid at time and one-half rate for service on the second

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shift in a 24-hour period; for March 31 and April 1, he was paid eight hours straight time plus one hour at overtime rate. During the remainder of the period he was paid at time and one-half rate for each day, including one hour overtime on every day except two.

Claim is here made for the difference between pro rata rate and time and one-half rate for March 31 and April 1 account working on rest days and for an additional day's pay for each working day April 2 to April 13 because suspended from his own assignment and required to work on a different assignment. The Carrier asserts that an emergency existed and claimant was properly paid.

For the work on March 31 and April 1, which were claimant's rest days, we think he was entitled to pay at time and one-half rate, and that part of the claim should be sustained.

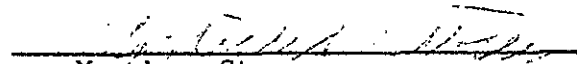
As for the period April 2 to April 13, we think the situation shown by Carrier constituted an emergency and Rule 9 (D) provides:

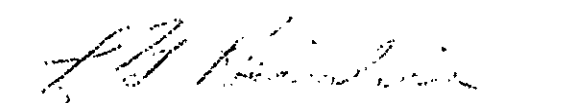
"(D) Regular assigned employees who because of an emergency are required to perform relief work in the same office and/or town which does not require a change of residence, will do so for a period of three (3) days, i.e., three (3) shifts, without extra compensation. Beginning with the fourth shift such employees will be paid time and one-half for each such relief shift required to work."

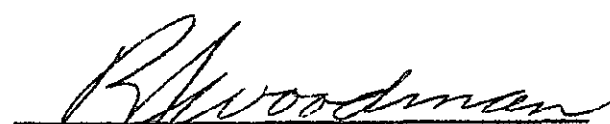
and we think claimant was properly paid and that part of the claim should be denied.

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AWARD: Claim sustained in part and denied in part as per findings.

  
Mortimer Stone  
Chairman, Neutral Member

  
L. G. Heinlein  
Carrier Member

  
R. J. Woodman  
Organization Member

Dated at Denver, Colorado, August 30, 1957.