

SPECIAL BOARD OF ADJUSTMENT NO. 186

AWARD NO. 12

Organization's File

R-962

Carrier's File

TE-18-56

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 did not fill (blanked) the position of Telegrapher 9:00 A.M. to 5:00 P.M. at "WN" Grand Junction, Colorado, while the regular occupant of the position was required to perform relief work on another position.

"(2) Carrier now be required to pay one day's pay on each day of the violation to the employees listed below (senior employe idle on rest day) on the date or dates immediately following their names:

M. B. Reynolds, April 2, 3, 1956
C. E. Jordan, April 4, 5, 1956
Barney Romero, April 6, 1956
O. P. Simpson, April 9, 1956
H. L. Haley, April 10, 11, 1956
L. A. Crutchfield, April 12, 13, 1956."

FINDINGS: This claim arises out of the same factual situation appearing in the docket resulting in Award No. 11. When Cesario, the claimant in that docket, was taken from his assignment to protect the 11 PM to 7 AM shift, his own 9 AM to 5 PM position was blanked during the period he was so assigned. Carrier shows that no extra telegrapher was available and all four assigned telegraphers were working on their rest days as no relief was available. Claim here is based on the contention that Carrier violated the agreement when it did not fill the vacancy on the established position.

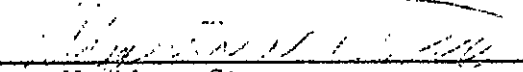
Cesario's position, which was blanked, was not a 7-day position necessary to continuous operation as was the case in the awards which have

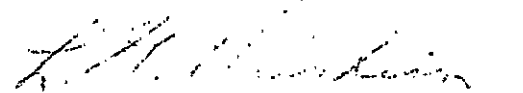
Award No. 12 (Continued)

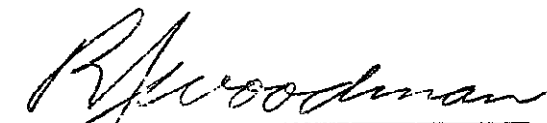
been cited by the Organization, except Award 4956. In that case no claim was presented in behalf of the employe in Cesario's situation who was called upon to relieve the other position, but only on behalf of an extra employe, and the award was not based upon blanking of his position but upon assigning him to relieve the other position which should have been assigned to a man from the extra board, if available, and if not then to regular towerman.

We held in Award No. 11 that under the existing situation of sudden resignation, excusable lack of extra man and the necessary employment of the regular men on their rest days, an emergency existed so that employment of Cesario was justified and governed by Rule 9 (D). That rule sets out the penalty for such service and to sustain claim for blanking his position would constitute double penalty.

AWARD: Claim denied.


Mortimer Stone
Chairman, Neutral Member


L. G. Heinlein
Carrier Member


R. J. Woodman
Organization Member

Dated at Denver, Colorado, August 30, 1957.