



ORT FILE: 1937
AWARD NO. 12
CASE NO. 12

SPECIAL BOARD OF ADJUSTMENT NO. 266
THE ORDER OF RAILROAD TELEGRAPHERS
vs.
THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM:

CLAIM NO. 1

Carrier violated the terms of the Telegraphers' Agreement when and because it blanked both the second trick and third trick, seven-day operator positions at B&O Junction December 25, 1954, January 1, 1955, May 30, 1955, July 4, 1955 and subsequent holidays; in consequence thereof the incumbents of the positions on said holidays shall be additionally paid eight (8) hours at time and one-half rate.

CLAIM NO. 2

Carrier violated the terms of the Telegraphers' Agreement and disregarded its advertising bulletins when and because it blanked the first trick seven-day position, the second trick six-day position and the third trick five-day position at Jamesville May 30, 1955 and on subsequent holidays; in consequence thereof the incumbents of the positions on said holidays shall be additionally paid eight (8) hours at time and one-half rate.

OPINION OF BOARD:

Article 24 (Guarantees) of the current Agreement, revised as of July 1, 1953, provides in pertinent part that a regularly assigned employee shall receive one day's pay within each 24 hour period if ready for service and not used, or if required on duty less than eight hours, except on his rest days when occupying a seven day position, or on his assigned rest days and holidays when occupying five and six day positions. Thus for employees occupying five and six day positions there is no guarantee of a day's pay for either rest days or holidays. The national agreement of August 21, 1954 (Article II) provides holiday pay at pro rata rate for each regularly assigned hourly and daily rate employee for specified holidays falling on a work day of his work-week, however. Thus with respect to the five and six day positions involved in Claim 2, there was no violation of the basic Agreement when the Carrier paid the incumbents thereof only eight hours pay at pro-rata rate for specified contract holidays when it did not require them to work.

With respect to employees occupying seven day positions, the Guarantee Rule provides a day's pay at pro rata rate for holidays where the employee is ready for service and not used, or if required on duty less than eight hours as per location. It is to be noted that this rule guarantees pay, not work. In fact, the provision contemplates that an employee in a seven day position may not be

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worked on a holiday. The 1954 national agreement, which was negotiated subsequent to Article 24, provides holiday pay at the straight time rate under the conditions already noted. There is nothing in the national agreement indicating that the holiday pay provided for therein is to be in lieu of pay already contracted for under the basic agreements on various properties. Thus we must conclude that such pay is in addition to compensation previously negotiated for the days in question. We therefore hold that incumbents of the seven day positions involved in this case are entitled to a total of double time pay for the holidays in question when ready for service but not used, or if required on duty less than eight hours as per location.

AWARD :

Claims denied in part and sustained in part in accordance with the above Opinion.

/S/ Lloyd H. Bailer
Lloyd H. Bailer, Neutral Member

/S/ W. I. Christopher
W. I. Christopher, Employee Member

/S/ F. Diegtel
F. Diegtel, Carrier Member

New York, New York
July 8, 1959