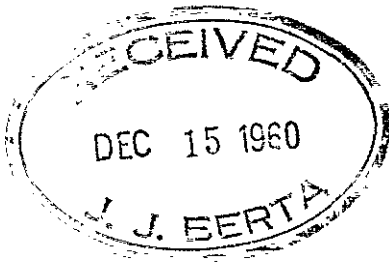


AWARD NO. 56
DOCKET NO. 56

(Case 2802)



SPECIAL BOARD OF ADJUSTMENT NO. 305

THE ORDER OF RAILROAD TELEGRAPHERS

vs.

MISSOURI PACIFIC RAILROAD COMPANY
(Southern & Western Districts)

STATEMENT OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad, that:

1. Carrier violated the Agreement by its failure to maintain on a permanent basis the rest day relief assignment at Osawatomie, Kansas, now being worked by B. L. Talley as an extra or unassigned employe or to regularly assign said Talley to the position.
2. Carrier violated the Agreement between the parties when it failed and refused to provide free transportation to Telegrapher B. L. Talley in February and March 1958 while he performed rest day relief work four days a week in Osawatomie and one day a week at Kansas City.
3. Carrier violated the Agreement between the parties when it failed and refused to compensate B. L. Talley eight hours pro rata holiday allowance as provided in the August 21, 1954 Agreement for February 22, 1958.
4. Carrier shall now be required to pay the automobile mileage for February and March 1958 as claimed by B. L. Talley who submitted proper claim for mileage when it was found that the passenger train transportation did not qualify as 'reasonable' transportation as described in Rule 8, Section 2, and shall be required to compensate him for the eight hour holiday pro rata allowance due him for February 22, 1958."

OPINION OF BOARD:

This is a claim for eight hours' compensation at the pro rata rate for a holiday which fell on February 22, 1958, and for automobile mileage allowance for February and March, 1958, based upon the alleged violation by the Carrier of the Agreement between the parties when it failed to maintain, on a permanent basis, the rest day relief assignment at Osawatomie, Kansas, now being worked by the claimant, an extra employe.

The record before the Board shows that on February 4, 1958, the Superintendent of Communications notified all concerned that effective with the close of business Tuesday, February 11, 1958, the late night chief and rest day relief positions in "JN" Relay Office at Osawatomie were abolished.

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The incumbent of the rest day relief position, who is the claimant here, on the date the abolishment of his position became effective notified the Superintendent of Communications and the Local Chairman of the Telegraphers' Organization that by reason of the abolishment of his position he desired to revert to the extra board and protect the four days of rest day relief work remaining at Osawatomie and one day of rest day relief work at Kansas City. Under the provisions of Rule 13(d) the claimant had the right to revert to the extra board.

The Organization is here contending that the rest day relief position then being filled by the claimant here was not abolished, but the relief assignment was merely changed from five days of work at Osawatomie to a position with four days of work at Osawatomie and one day of work at Kansas City, a point some 62 miles distant. They rely upon Rule 8, Section 2(e-4) in support of their claim. The Carrier referred the Board to Rule 8, Section 2(e), titled "Regular Relief Assignment" and pointed out to the Board that said rule does not obligate the Carrier to establish a regular assignment with five days of work unless the two rest days can be consecutive and then referred the Board to other provisions of Rule 8, Section 2, which they contend are not mandatory but permissive rules for the establishment of regular rest day relief positions under varying conditions set forth therein. The Carrier further states that no regular rest day relief position was established with four days of work at Osawatomie and one day of rest day relief work at Kansas City because the rest days available could not be consecutive. These rest days could be protected by available extra employees.

Based upon the facts which are not disputed in the record, we are forced to the conclusion that the claimant did not, on February 22, 1958, occupy a regular rest day relief position as alleged by the Organization but, on the other hand, had, by his own action, reverted to the extra board and was working as an extra man. Not being a regularly assigned employee, he is not entitled to eight hours' holiday pro rata allowance under the provisions of Article II of the Agreement of August 21, 1954.

Having found that the regular rest day relief position at Osawatomie was properly abolished by the Carrier on February 11, 1958, and that it was not mandatory upon the Carrier to establish a regular relief assignment with nonconsecutive rest days, and not desiring to take advantage of other permissive provisions of Rule 8, Section 2, concerning the various ways in which rest day relief positions could be established, we have come to the conclusion that rules relating to free transportation for necessary travel are not applicable in the absence of the establishment by the Carrier of a regular relief position as here contended by the Organization was done.

For these reasons the instant claim is not supported by the provisions of the applicable agreement as applied to the facts.

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FINDINGS: Carrier did not violate the Agreement.

AWARD

Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 305

s/ Donald F. McMahon - Chairman
Donald F. McMahon - Chairman

s/ R. K. Anthis
R. K. Anthis - Organization Member

s/ G. W. Johnson
G. W. Johnson - Carrier Member

St. Louis, Missouri
September 23, 1960

File 380-1865