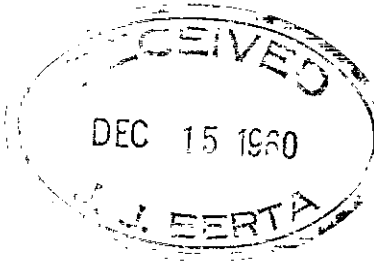


AWARD NO. 70  
DOCKET NO. 70  
(Case 2997)



SPECIAL BOARD OF ADJUSTMENT NO. 305

THE ORDER OF RAILROAD TELEGRAPHERS

vs.

UNION RAILWAY COMPANY  
(Memphis)

STATEMENT OF CLAIM:

"Claim of the Committee of The Order of Railroad Telegraphers on the Union Railway that:

1. Carrier violated the agreement between the parties when it improperly relieved Telegraphers Thomas A. Coulson, first shift, R. E. Bridger, second shift, and K. C. May, third shift, at Sargent Yard, Memphis, Tennessee on their assigned rest days from March 4, 1959 through May 30, 1959.

2. Carrier shall be required to compensate:

Thomas A. Coulson in the amount of eight hours' pay at the time and one-half rate on Wednesday, March 4, 1959, and on each Tuesday and Wednesday thereafter to and including Wednesday, May 27, 1959.

R. E. Bridger in the amount of eight hours' pay at the time and one-half rate on Thursday, March 5, 1959, Friday, March 6, 1959, and on each Thursday and Friday thereafter to and including Friday, May 29, 1959.

K. C. May in the amount of eight hours' pay at the time and one-half rate on Saturday, March 14, 1959, and on each Saturday thereafter to and including Saturday, May 30, 1959."

OPINION OF BOARD:

The claimants were regularly assigned telegraphers at Sargent Yard, Memphis, Tennessee, and each was assigned a work week of five days, with two consecutive rest days. Five of the rest days of those three positions were incorporated into a regular relief position occupied by Mrs. M. L. Terrell.

On March 2, 1959, Mrs. Terrell was given a leave of absence, and there being no extra telegrapher available to relieve Mrs. Terrell on her regular relief position, the Carrier did, on March 3, 1959, accept an application for employment from Mr. E. F. Straub, an employe of the Missouri Pacific Railroad on authorized leave of absence. Mr. Straub was examined by Carrier medical examiner at Memphis, Dr. J. O. Gordon, on March 4, 1959, and found qualified. He began work on the rest day relief position on March 4, 1959.

AWARD NO. 70  
DOCKET NO. 70  
(Case 2997)

PAGE 2

On dates of claim as set forth in the record, Mr. Straub worked on the rest days of the claimants' positions, and as a result thereof, these claims have been filed for such rest days during the period March 4 to May 30, 1959.

The Organization bases these claims upon the allegation that Mr. Straub was not a bona fide employee, and thus in the absence of an available extra employee holding seniority as a telegrapher, the claimants should have been used to work on their own rest days.

From the evidence placed before the Board we are convinced that Mr. E. F. Straub was a bona fide employee and as such was properly used. No rule or other agreement provision has been called to the Board's attention which prohibits the Union Railway Company from hiring an employee on leave of absence from another railroad or other employer.

The fact that Mr. Straub saw fit to leave the service of the Union Railway Company upon the expiration of his leave of absence from the Missouri Pacific Railroad does not render his employment relationship with the Union Railway other than bona fide during the period of these claims.

Claims should be denied.

FINDINGS: Carrier did not violate the Agreement, nor does the record here support the claim.

AWARD

Claims denied.

SPECIAL BOARD OF ADJUSTMENT NO. 305

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

Dissenting  
R. K. Anthis - Organization Member

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

St. Louis, Missouri  
September 23, 1960

File 380-1920