

Award No. 28
Case No. 28
NRAB Case ----

SPECIAL BOARD OF ADJUSTMENT NO. 421

THE ORDER OF RAILROAD TELEGRAPHERS)
vs.)
NEW YORK CENTRAL RAILROAD, EASTERN DISTRICT)
(except Boston and Albany Division) and)
NEW YORK DISTRICT)

STATEMENT OF CLAIM:

1. Carrier violated the provisions of the Telegraphers' Agreement when it suspended Mr. V. E. Costelli from Rest Day Relief Position No. 23 and ordered him to work as third shift telephoner-leverman at Interlocking No. 26, commencing June 23, 1960.
2. Claimant Costelli shall be paid by Carrier the higher rate of pay while working at Int. 26, June 23, 24, 25 and 26, 1960, plus payment for travel time mileage and all expenses incurred on these four days, plus time and one-half at the higher rate for June 23 and 24, 1960.

OPINION OF BOARD:

The evidence discloses that the Carrier was not faced with an emergency condition at the time involved in this claim and thus it was a contract violation to divert Claimant Costelli from the vacancy he was filling at Int. 30, prior to the termination of that vacancy, to the vacancy at Int. 26. Thus Part 1 of the claim will be sustained. In view of the fact that the Claimant increased his earnings by virtue of being diverted to the vacancy at Int. 26, and since there is no showing that any other employee was improperly deprived of work or pay, we conclude that Part 2 of the claim should be denied.

AWARD:

Part 1 of the claim is sustained. Part 2 of the claim is denied.

/s/ Lloyd H. Bailer
Lloyd H. Bailer, Chairman

/s/ L. Faulds
L. Faulds, Carrier Member

/s/ R. J. Woodman
R. J. Woodman, Employee Member

June 25, 1963