

Award No. 44  
Docket No. 44

MOP File 380-1553  
ORT File 1198

SPECIAL BOARD OF ADJUSTMENT NO. 117

ORDER OF RAILROAD TELEGRAPHERS  
and  
MISSOURI PACIFIC RAILROAD COMPANY

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

1. Carrier violated the Agreement when it failed to call M. L. Goding to perform service on his position as Manager-Wire Chief at Hoisington, Kansas, on Sunday, January 16, 1955.
2. Carrier shall now be required to pay M. L. Goding a call of 3 hours at the rate of time and one-half for January 16, 1955.

OPINION OF BOARD: This concerns the allegation that the Carrier was in violation of the effective agreement when it failed to call the claimant for certain service on Sunday, January 15, 1955.

Claimant was the occupant of a regular assigned position of Manager-Wire Chief with assigned hours 8:00 a.m. to 4:00 p.m., Monday through Saturday. At this location, there was a position designated as Late Night Chief with assigned hours 12 midnight to 8:00 a.m., with the same week days assigned.

The Organization asserts that the work in question was work which was required to be performed between 8:00 and 9:00 a.m. on the date in question and which was improperly performed by the occupant of the Late Night Chief position, and that since such work was performed during the regularly assigned hours of the Manager Wire Chief position and was work of the type which would have normally been performed by him, and there being no senior extra idle employe available to perform the service, the same should have been within the meaning of Rule 8, Section 2(j), and Rule 9, Section 1-II-B(1), performed by the claimant and compensated for by the payment of a call.

The Organization asserted that Section 2(j) of Rule 8 clearly provides that where work is required to be performed on a day which is not a part of any assignment and where a senior idle extra employe is not available, the occupant of the regular assignment is entitled to perform the work and be compensated for a call and paid a minimum of 3 hours for each tour of duty.

The respondent here asserted that the effective agreement was not violated when, on the date in question, it held over the occupant of the Late Night Chief position for one hour after the end of his assigned hours. It was contended that the work was over and above that required during the hours of regularly established position at the station in question and that the claimant's position here did not have a Sunday assignment and was thus not entitled to perform the work on the Sunday in question within the meaning of Rule 9, Section 1-II-B(1).

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It was contended that, if the Organization's interpretation of Rule 8, Section 2(j), and Rule 9, Section 1-II-B(1), were applied, it would mean that any work that was not of a predetermined nature would have to be performed on a call basis.

The Carrier pointed out that the sole purpose of Rule 9 in its entirety was to determine compensation for its employees who were required to work on their assigned rest days and, in the instant case, the claimant here was not required to perform any service, thus the work in question was not work on an unassigned day within the meaning of Rule 8, Section 2(j), but, in truth and in fact, was work required outside the assigned hours of any position.

It is not subject to question that work on a rest day of a position on which the position is not scheduled to be worked by any employee, is work on an unassigned day. The date in question was a rest day of the claimant. Rule 8-2(j) clearly states that where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by either (1) an extra unassigned employee who has not otherwise had 40 hours' work that week, or (2) by the regular employee. The work here in question was work of the assignment and of the type and nature which was ordinarily performed during the hours thereof and it should have been performed by the claimant when the Carrier required the same to be done and compensated for on a call basis.

FINDINGS: The Special Board of Adjustment No. 117, upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934.


That this Special Board of Adjustment has jurisdiction over the dispute involved herein; and,

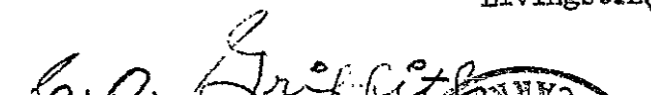
That the Carrier violated the effective agreement.


AWARD

Claim sustained.

SPECIAL BOARD OF ADJUSTMENT NO. 117

  
Livingston Smith - Chairman

  
C. O. Griffith - Employee Member

  
G. W. Johnson - Carrier Member

St. Louis, Missouri  
July 31, 1956

