

AWARD NO. 24
Case No. 22

SPECIAL BOARD OF ADJUSTMENT NO. 259

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, and continues to violate, the provisions of the Telegraphers' Agreement by requiring the employees working the first trick position at Massena, New York to go on duty at 4:30 a.m., suspend work at 5:30 a.m., resume work at 7:00 a.m. and work to 3:00 p.m., daily except Sunday, and on Sunday work from 7:00 a.m. to 3:00 p.m.
2. The Carrier shall now be required to pay J. C. Glancy, the regular assigned incumbent of the first trick position at Massena, New York, Monday through Friday, and J. L. Sigouin, regular incumbent of the Nineteenth Relief, who covers the first trick position on Saturday and Sunday, on a continuous time basis from 4:30 a.m. to 3:00 p.m. at the time and one-half rate for all time in excess of eight (8) hours each day beginning Sunday, April 27, 1958, and continuing until the violation is corrected.

OPINION OF BOARD:

For a number of years there had been three Telegrapher-Clerk positions at Massena, New York, each being assigned to a different trick. On November 22, 1957, the Carrier abolished the third trick Telegrapher-Clerk position, the other two positions being retained. The assigned hours of the first trick position were 7:00 A.M. to 3:00 P.M., seven days per week. The regular incumbent of this position, Claimant Glancy, was assigned Monday through Friday. The Saturday and Sunday rest days of the position were included in the relief job known as the Nineteenth Relief Position which was held by Claimant Sigouin. These employees were subject to the Hours of Service Law. The assigned hours of the second trick position were 3:00 P.M. to 11:00 P.M., Monday through Saturday. The regular second trick Telegrapher-Clerk was assigned Tuesday through Saturday with the Monday rest day being worked by a relief operator.

Beginning April 27, 1958, the first trick Telegrapher-Clerk was assigned or instructed to work from 4:30 A.M. to 5:30 A.M. He went off duty at the latter time, returning at 7:00 A.M. and working until 3:00 P.M. This schedule was in effect for the regular Telegrapher-Clerk Monday through Friday and for the relief operator on Saturday. On Sunday the relief operator worked from 7:00 A.M. until 3:00 P.M. as previously. The incumbents of the first trick position were paid on a call basis (a minimum of two hours at time and one-half) for the time worked from 4:30 A.M. to 5:30 A.M.

The subject claim was filed by the Organization's Local Chairman on May 12, 1958. Effective May 15, 1958, the scheduled hours for first trick Telegrapher-

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Clerk position were changed to 4:30 A.M. to 12:30 P.M., while the assigned hours of the second trick position were changed to 3:30 P.M. to 11:30 P.M. Thus the period covered by the subject claim is from April 27 to, but not including, May 15, 1958.

The Organization contends that various provisions of the Agreement were violated by the Carrier's action in requiring the first trick Telegrapher-Clerk to work the hours noted above and under the method of compensation already indicated. The key point in the Petitioner's argument appears to be, however, that the Carrier changed the starting time of the position from 7:00 A.M. to 4:30 A.M. and that in consequence the Carrier should have kept the incumbent of the first trick position under continuous pay from 4:30 A.M. until his quitting time of 3:00 P.M., Monday through Saturday. If this procedure had been followed, the first trick Telegrapher-Clerk would have worked the last 2½ hours at the over-time rate during these days. Thus the Claimants would have received pay for one-half of an hour at the overtime rate in addition to the pay actually received for the period in question. The Organization asserts that Management placed the first trick Telegrapher-Clerk upon a split trick assignment, in violation of the Agreement. It is further alleged that regularly recurring calls are not permitted, that the Basic Day Rule was violated, and that the Carrier's action was in contravention of Article 9 (Suspension of Work--Absorbing Overtime). The Carrier denies any contract violation occurred.

We have examined the Agreement with exceeding care but have been unable to find any provision that was violated under the confronting facts. The Claimants worked a basic day of eight consecutive hours, including meal period, between the hours of 7:00 A.M. and 3:00 P.M. In addition they were regularly called to perform service "not continuous with their regular work period" (Article 5-Calls), for which they were compensated in accordance with the provisions of the Call Rule. The Organization contends this Rule was not intended to permit regularly recurring calls of this nature. The language of the Rule does not limit its application in this respect, however, and thus we are not entitled to read such an interpretation into the Rule. A denial award is warranted.

AWARD:

Claim denied.

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

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

/s/ Chas. N. Faris
Charles N. Faris, Carrier Member

New York, New York
February 12, 1959