ORT FILE: 1955
AWARD NO. 19
CASE NO. 19

SPECIAL BOARD OF ADJUSTMENT NO. 266
THE ORDER OF RAILROAD TELEGRAPHERS
vs.
THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM:

Claim of the General Committee of The Order of Railroad Telegraphers on the Delaware, Lackawanna & Western Railroad, that:

1. The Carrier violated the Agreement between the parties signatory thereto when it failed and refused to properly compensate:

W. A. Grimm	Orange Tower
W. L. Boggess	Henderson Street Tower
J. B. Paradise	Bridge 60 Scranton
J. R. Lydon	Scranton Yard

for February 22, 1955, a holiday; and failed and refused to properly compensate:

Joseph Dushok	Mattes Street Tower
R. Mulronney	East End Tower
E. Troupe	Kingston Yard
C. Kopetchny	East End Tower

for May 30, 1955, a holiday; and

2. The Carrier shall now be required to compensate named claimants the eight (8) hours at the pro rata hourly rate applicable to their respective positions; and

3. The Carrier shall, commencing February 22, 1955, and on all subsequent holidays, properly compensate each extra employe who performs service to the same extent as those named in this claim, eight (8) hours at the pro rata hourly rate applicable to the respective positions worked, such information to be determined by a joint check of Carrier's records.

OPINION OF BOARD:

Carrier contends Claimant Troupe did not actually work on May 30, 1955, as asserted in the claim. In view of what is said below however, this point becomes academic.

Opinion of Board (continued)

At the time in question the claimants were extra men who worked on the holidays specified in the claim and also performed service on the positions involved on the work days immediately preceding and following these holidays. They were paid at the rate of time and one-half for work performed on said holidays. The Organization contends, however, that the Claimants were entitled to a day's pay at pro rata rate in addition to the compensation already received for these holidays. The question here is whether the National Agreement of August 21, 1954, when construed in conjunction with the Basic Agreement of the subject parties, calls for holiday pay for the claimants in addition to the time and one-half rate granted them for work performed.

In a long series of awards the National Railroad Adjustment Board has interpreted Article II of the August 21, 1954 Agreement as excluding extra employees from the straight time holiday pay granted by that Article for specified holidays. It has been consistently held that this provision applies to hourly and daily rated employees who are regularly assigned, and that extra employees do not fall within this category.

The only cited award on this question which is in favor of the Organization's position is Award 8390 (Third Division). In that case, however, the basic agreement provided: "Extra employees shall receive the same compensation in relief service as the employe they relieve." The claim was sustained in that case solely because of this special provision. The basic Agreement of the subject parties does not contain such a provision, however. The most nearly comparable clause is found in Article 18, Paragraph (b) which states: "Extra employees will receive the compensation of the position to which assigned." The difference between the language of the two clauses just quoted is apparent. The ORT Agreement on this property provides that extra employees are entitled to the compensation of the position to which assigned, not to the compensation of the employees whom they have relieved. Since the holiday pay provided for in Article II of the August 21, 1954 Agreement is related to regularly assigned employees, rather than to positions, we find no basis for sustaining the instant claim.

AWARD:

Claim denied.

/S/ Lloyd H. Bailer
Lloyd H. Bailer, Neutral Member

DISSENTING
W. I. Christopher, Employee Member

/S/ F. Diegtel
F. Diegtel, Carrier Member

New York, New York
July 17, 1959