

SPECIAL BOARD OF ADJUSTMENT NO. 266

406-3

THE ORDER OF RAILROAD TELEGRAPHERS

vs.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

AWARD NO. 81
CASE NO. 101
417/ 4-4
(124-58)

EMPLOYEES' STATEMENT OF CLAIM:

On December 23, 1957 instructions were issued that Corning would be closed Dec. 25 and Relief Agent R. E. Moore would come out on call to handle mail train No. 15, and similar instructions were issued on December 30, 1957 covering January 1, 1958 except that Agent W. C. Mann would work the call for No. 15.

Article 5 provides for call services not continuous with the regular work period and on Saturdays of two hours at the overtime rate, and under Article 8 Sec 1 M (11) B.1, provides for a minimum of three hours at overtime rate during week day assigned hours on a Sunday; therefore the service performed by Moore on December 25th which was in error and should have been given to Agent Mann, and service performed on January 1st, 1958 must be for a full eight hours compensation at the applicable rate. Incidentally, you attempted this same procedure on December 24, 1954 at Syracuse Tower, Case 417-SU-223, which you settled by paying Flaherty an additional \$12.99 and H. West \$11.55 to make the full 20 hours pay on that date. The contracted for rate on seven (7) day positions for Holidays (December 25, 1957 and January 1, 1958) is 20 hours pay.

Because of this handling, which is in violation of our Agreement, this is claim in favor of W. C. Mann, Agent-Operator Corning, N. Y. for 20 hours pay at \$2.6498 an hour or \$53.00 each date, less the amount paid on December 25, 1957 and January 1, 1958 and on a continuous basis on all subsequent Holidays when similar violations take place, the applicable Articles being 8, 11 and 24, and similar claim in favor of L. W. Cascio on Cycle No. - 13 who was scheduled to work 2nd trick on December 25 and January 1st, 20 hours at 2.248 amount of \$44.96 on each date, less amount paid. Also claim in favor of F. G. Millspaugh for December 25, 1957 third trick rate of \$2.248 amount \$44.96 less amount paid and in favor of R. E. Moore on 3rd trick January 1st 1958 at rate of 2.248 amount of \$44.96. Also 20 hours pay for R. E. Moore on December 25, 1957 for being improperly used on a call for No. -15 at rate of 2.6498 in amount of \$53.00 less amount paid, and any subsequent holidays when similar violations take place, the applicable Articles being 8, 11 and 24 of the Agreement.

OPINION OF BOARD:

Since Claimant Mann's seven-day position at Corning, New York was worked on December 25, 1957, although this part day assignment was erroneously given to

another employee (R. E. Moore), and since Mann did work his position for part of a day on January 1, 1958, he is entitled to be compensated for each of these contract holidays in the amount of 8 hours pay at the rate of time and one-half in addition to holiday pay. He should be compensated in the amount just stated, less the pay already given him for the two holidays in question. Claimant Mann also is entitled to be compensated on the basis here indicated for any work performed by him in his seven-day position on subsequent contract holidays.

Claimant L. W. Cascio's assignment to a seven-day position was blanked in full on December 25, 1957 and January 1, 1958. He is entitled to be compensated in the amount of 8 hours pay at pro rata rate in addition to holiday pay for each of these contract holidays and for subsequent contract holidays when the same set of circumstances occurs.

Claimant F. G. Millspaugh is not entitled to any additional compensation for December 25, 1957 since he was not a regularly assigned employee at that time. Claimant R. E. Moore's entitlement to compensation for December 25, 1957 will be dealt with in Award No. (Case No. 103) of this Board.

AWARD: Claim sustained in part and denied in part in accordance with the above opinion.

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

/s/ W. I. Christopher
W. I. Christopher, Employee Member

/s/ R. A. Carroll
R. A. Carroll, Carrier Member

PARTIAL DISSENT

The undersigned enters a partial dissent to the opinion and award in this case for the same reason expressed in his partial dissent to Award No. 52.

/s/ W. I. Christopher
Employee Member

New York, N. Y.
December 3, 1959.

