

SPECIAL BOARD OF ADJUSTMENT NO. 355

Parties:

THE ORDER OF RAILROAD TELEGRAPHERS
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD NO. 40
CASE NO. 56
BU 5883-33

AWARD IN DOCKET NO. 40

STATEMENT
OF CLAIM:

1. Carrier violates and continues to violate the agreement between the parties when it fails to assign eight consecutive hours to the positions of Agent-Operator and Operator-Clerk at Jackson, Ohio.
2. Carrier shall compensate the occupants of the two positions each in the amount of one hour's pay at the time and one-half rate on each working day commencing on October 14, 1958 and continuing thereafter on a day-to-day basis until the violation is corrected.

FINDINGS:

Organization's claim is that the Carrier violates the agreement "when it fails to assign eight consecutive hours to the positions of Agent-Operator and Operator-Clerk at Jackson, Ohio."

It cites Article 17 (a), reading:

"(a) Except as provided in Paragraph (b) of this Article, eight consecutive hours, exclusive of the meal hour, shall constitute a day's work, except that where two or more shifts are worked, eight consecutive hours with no allowance for meals, shall constitute a day's work."

The facts are that the Agent-Operator is a monthly rated employee with a 9-hour day, without payment for casual overtime. His salary adjustments have been predicated on that basis for at least 11 years prior to the filing of the instant claim.

What Organization is here seeking is the payment to both men at the time and one-half rate for the 1 hour lunch period. That is the claim as made.

However, the fact that the Agent-Operator is a monthly rated employee, he is not entitled to the payment of overtime under Article 18 (e).

Furthermore, while there may be some duties common to both positions, we do not believe the two men -- Agent-Operator and Operator-Clerk -- can be held to be performing the same class of work, as comprehended in the note to Article 18 (b).

The claim will be denied.

A W A R D

Claim denied.

/s/ Edward A. Lynch
Edward A. Lynch
Chairman

/s/ B. N. Kinkead
B. N. Kinkead
Employee Member

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland,
this 20th day of February, 1962.