

**Award No. 10062**

**Docket No. TE-8784**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**J. Harvey Daly, Referee**

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**THE TOLEDO TERMINAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Toledo Terminal Railroad, that:

1. Carrier violated agreement when it failed and refused to compensate in accordance with the agreement, R. R. Hudson, for service rendered on his rest day, July 22, 1955.
2. Carrier shall be required to compensate R. R. Hudson for eight (8) hours at time and one-half straight time rate (less amount previously paid) for service rendered on July 22, 1955.

**EMPLOYEES' STATEMENT OF FACTS:** At the time this grievance arose, a collective bargaining Agreement dated August 26, 1949 entered into by and between the Toledo Terminal Railroad Company, hereinafter referred to as Carrier or Management and The Order of Railroad Telegraphers, hereinafter referred to as Employes or Telegraphers, was in full force and effect. A new Agreement was entered into and effective on July 30, 1955, subsequent to the date of this claim. The Agreement between the parties is made a part of this dispute by reference, as though set out herein word for word.

This dispute was handled in the usual manner on the property through the highest officer designated by Carrier to handle such dispute and failed of adjustment. Under the provisions of the Railway Labor Act, as amended, since this dispute involves interpretation of the collective bargaining Agreement and has failed of adjustment, it is properly submitted to this Board for decision and award. This Board has jurisdiction of the parties and the subject matter.

The Order of Railroad Telegraphers is the designated bargaining agent for the craft or class of train dispatchers employed by this Carrier. The preamble of the Agreement provides:

"Schedule of wages and rules of working agreement of train dispatchers in the employ of The Toledo Terminal Railroad Company, agreed to between the representatives of The Toledo Terminal Railroad Company and The Order of Railroad Telegraphers."

**OPINION OF BOARD:** The pertinent rules of the Agreement involved in this case are as follows:

**Article 3, Section 1, paragraph M**

“M—Service on Rest Days—

“Employes required to perform service on their assigned rest days within the hours of their regular week day assignment shall be paid at the rate of time and one-half with a minimum of eight (8) hours.”

**Article 2, paragraph B**

“B—Train dispatchers summoned as witnesses for the company in the courts or similar service shall receive their regular rates of pay and in addition necessary actual expense. Witness fee or mileage fee to be assigned to the carrier.”

The Carrier contends that the Claimant “was not required to work or perform service on July 22nd” and, therefore, the provisions contained in Article 2, paragraph A and Article 3, paragraph L, are not applicable, because those provisions deal only with work or service performed. The Carrier maintains that Mr. Hudson’s claim should be based on Article 2, paragraph B of the Agreement.

To support its position, the Carrier presented Awards 134, 409, 2132, 2512, 3230, 4451 and 7090. A careful and objective review of those Awards, revealed that all of them are readily distinguishable from the present case. Consequently, their value as precedent guides, in this case, is of a diminished nature.

Article 3, Section 1, Paragraph M of the Agreement—reads as follows:

“M — Service on Rest Days

“Employes required to perform service on their assigned rest days within the hours of their regular week day assignment shall be paid at the rate of time and one-half with a minimum of eight (8) hours.”

The key word in the above rule is SERVICE. What does the word “service” mean? Funk & Wagnalls new Standard Dictionary of the English Language defines the delineations of the word that are of interest to us as follows:

1. The art of serving; labor performed in the interest and under the direction of others.
2. Any work done for the benefit of another. The act of helping another or of promoting his interest in any way; hence, also, a benefit or advantage conferred, or use and advantage in general;

In this particular case, the Claimant was ordered to attend a meeting on his rest day. The meeting was for the purpose of discussing some operational problems with the Claimant and two other dispatchers. Certainly no one will deny that such a meeting was primarily for the Carrier’s benefit. Accordingly, the Board holds that the Claimant did perform a service when he attended—on his rest day—the Carrier meeting held on July 22, 1955.

This Board shares the opinion expressed by Referee Messmore in Award 3462—which is as follows: “. . . the Carrier took claimant’s time for its own

use and benefit and in the furtherance of its own business and that, under such circumstances, it mattered not whether claimant worked or only stood and waited, he was entitled to pay . . .”

That the Claimant performed a service within the contractual meaning of Article 3, Section 1, Paragraph M, and also within the purview of the dictionary definition of the word “service” there can be no doubt. Furthermore, the language of that provision is not clouded or obscure but simple and direct.

In the opinion of the Board, the Claimant is entitled to the difference between the 3 hours of overtime pay he already received and 8 hours of overtime pay—computed at his regular hourly rate.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

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

That the Carrier violated the Agreement.

#### AWARD

The Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of September, 1961.