

Referee Harold M. Weston

PARTIES Railroad Yardmasters of America
TO
DISPUTE: Lehigh Valley Railroad Company

STATEMENT Claim and request of Railroad Yardmasters of America that:
OF CLAIM:

Yardmaster R. F. Millard be allowed one day's pay at the punitive time and one-half rate of pay when he was not allowed to work on his regular assignment on December 25, 1969 and an extra Yardmaster was used.

OPINION The present claim stems from Carrier's use of an extra yardmaster
OF BOARD: to fill the second trick yardmaster position on Christmas Day
1969. The position had been blanked in anticipation of light
traffic but conditions arose that day that made it necessary to
work the position.

Claimant, as the regularly assigned second trick yardmaster, clearly had the prior right to perform the work in question and we agree with Petitioner that he should have been called upon to cover the position. However, Carrier expressly pointed out to Petitioner, while the claim was being discussed on the property, that when the need for the work became apparent on December 25, 1969, Claimant "was called a number of times by telephone" but no answer was received. Petitioner did not contest, on the property, Carrier's statements that calls had been made to Claimant but instead confined its position to the contention that "It is not the obligation of the claimant to sit by his telephone waiting for the Carrier to decide whether the annulled position would work or not."

Since the issue was not raised, it was not necessary for Carrier to present further details regarding its attempts to call Claimant. While the latter did not have to sit by the telephone to find out whether his position would be worked, he obviously could not insist upon performing the work unless he could be contacted and was available.

The claim must be denied on those facts.

FINDINGS:

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds 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.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:

E. A. Killeen

E. A. Killeen
Secretary

Dated at Chicago, Illinois, this 5th day of November, 1971.