

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE COLORADO AND SOUTHERN RAILWAY COMPANY

DISPUTE.—“Claim of H. M. Trickey, Agent-Telegrapher, Grenville, New Mexico, for pay for call at overtime rate account train orders for trains at his station sent from Texline to Grenville in care of trainmen and placed by them in waybill box at Grenville to be picked up by trains addressed, to avoid paying said overtime to Trickey.”

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence finds that:

The carrier and the employees 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.

As result of a deadlock, Paul Samuell was called in as Referee to sit with this Division.

The parties jointly certified and the Third Division so finds the facts to be as follows:

“H. M. Trickey was the Agent-Telegrapher at Grenville, New Mexico, a one-shift position, with assigned hours 9:00 A. M. to 6:00 P. M. with one hour out assigned for meals.

“A work train extra was temporarily working out of Grenville, June 1st to 5th, 1931, inclusive, tying up there each night, coming on duty each day at 7:00 A. M.

“Instructions to the work train extra read as follows:

“‘The dispatcher will send your orders to you in care of Conductor No. 1 who will stop at Grenville and place them in the waybill box. You will not call the operator at Grenville for orders to start work at 7:00 A. M.’

“The conductor in charge of this work extra did get his work orders each morning when coming on duty out of waybill box. The Agent-Telegrapher was not called prior to his regular starting time to handle these orders for this work extra, he only handled orders, if any, for this work extra during his assigned hours.

“No emergency existed, the Agent-Telegrapher occupied living quarters in the depot at Grenville, and was available if called.

“Trickey made claim for pay for one call each day of the five days. The claim was not allowed.

“The Telegraphers’ claim is based upon the provisions of Rule 16 of the Telegraphers’ Schedule Agreement covering the handling of train orders, which read as follows:

“‘Rule 16. No employe other than covered by this Schedule and train dispatchers will be permitted to handle train orders at telegraph or telephone offices where an operator is employed and is available or can be promptly located, except in an emergency, in which case the telegrapher will be paid for the call.’”

It is the carrier's position that the words “handle train orders” means “copy train orders” and that since the telegraphers at Texline copied the train orders issued to the work extra working out of Grenville that the carrier has met all of the requirements set forth in Rule 16; that it was the intention of the Rule to prohibit the copying of train orders and that, therefore, it was

not a violation of the Rule to handle the train orders in the manner above indicated.

We cannot agree with the carrier's position in the interpretation of this Rule.

The Rule is quite clear and requires no unusual interpretation. Doubtlessly it was made for the purpose of preventing encroachments upon that work to which the employees in that particular craft were entitled. So long as either party insists upon a strict observance of the Rule this Division is without right to alter it by placing strained interpretations upon it unless both parties to the Agreement have by a course of conduct waived such observance. In the interest of economy and cooperation during distressing economic conditions, this Division is of the opinion that claimants' representatives might have very generously waived this small claim without serious harm to anyone concerned. Since the employee insists upon his rights this Division feels obliged to grant them.

AWARD

Claim of the employee is sustained.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 4th day of September 1935.