

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

DISPUTE.—

"Claim of the General Committee of The Order of Railroad Telegraphers, Southern Pacific Company (Pacific Lines), that Telegrapher M. C. Kuhn be paid for one day's time transferring from Sparks, Nevada, to Valley Pass, Nevada, October 15th, 1933."

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

The carrier and the employe involved in this dispute are respectively carrier and employe 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 following statement of facts is jointly certified by the parties and the Third Division so finds:

"Telegrapher M. C. Kuhn, Salt Lake Division, was regularly assigned to the position of fifth telegrapher, Sparks, Nevada, daily except Sundays and holidays, assigned hours 1 P. M. to 9 P. M. Position abolished at conclusion of tour of duty at 9 P. M., Saturday, October 14th, 1933. Kuhn made displacement of first trick telegrapher at Valley Pass under Rule 21 (c) of the Telegraphers' Agreement, starting time of this assignment, 8 A. M. daily.

"Train service was not available to permit Telegrapher Kuhn to travel from Sparks to Valley Pass (subsequent to 9 P. M., October 14th, 1933) so Kuhn could have assumed duty at Valley Pass 8 A. M., October 15th, 1933. If train service had been available, the Federal Hours of Service Act would not have permitted Kuhn to assume duty at Valley Pass 8 A. M., October 15th, 1933. Telegrapher Kuhn traveled Sparks to Valley Pass on train No. 10, October 15th, 1933, 8 A. M. to 6:07 P. M., and assumed duty at Valley Pass, 8 A. M., October 16th, 1933."

There is in evidence an agreement between the parties, bearing effective date of September 1st, 1927, and the employees cite and rely upon Rule 11 (a) in support of claim:

"**RULE 11 (a).** Time lost in transferring from one station or position to another, shall be paid for at the rate of the position from which transferred, excepting such time as may be lost of the employee's own accord. The word 'transferring' includes transfer in the exercise of seniority and also time lost checking in and out of positions."

The carrier represents that the position to which Telegrapher Kuhn was assigned at Sparks and which was discontinued at 9 P. M., Saturday, October 14th, 1933, was not assigned to work Sundays and Holidays and, therefore, if the position had not been abolished, Telegrapher Kuhn would not have

worked or been compensated for Sunday, October 15, 1933, under the provisions of Rule 5, reading:

"RULE 5. Regular assigned telegraphers will receive one day's pay within each twenty-four (24) hours, according to location occupied or to which entitled, if ready for service and not used, or if required on duty less than the required minimum number of hours as per location, except on Sundays and holidays.

"A regular assigned telegrapher is one who is assigned to a position by bulletin."

Also, that on Telegrapher Kuhn's assignment at Sparks, there was no earning expectancy on any Sunday or holiday and, therefore, Telegrapher Kuhn did not lose time by transferring from Sparks to Valley Pass, October 15, 1933.

The Third Division finds Telegrapher Kuhn's assignment at Sparks was abolished at 9 P. M., Saturday, October 14, 1933; that displacement at Valley Pass was made in accord with the provisions of Rule 21 (c); and that Rule 11 (a) provides pay for time lost in transferring in exercise of seniority.

AWARD

Claim sustained.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON, *Secretary*.

Dated at Chicago, Illinois, this 16th day of April 1936.