

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Wm. H. Spencer, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY**

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway, that the handling of train orders at stations and offices is work covered by Telegraphers' Agreement and shall be handled only by employes under the agreement and train dispatchers, and that the carrier is violating the said agreement in permitting or requiring employes not under the agreement (other than train dispatchers) to re-copy train orders by ditto or other duplicating process for delivery to train by telegraphers."

EMPLOYES' STATEMENT OF FACTS: "Agreement bearing date of February 5, 1924 and January 1, 1928, as to rules of working conditions and rates of pay respectively, exists between parties to this dispute.

"The said agreement does not cover employes engaged in re-copying train orders by ditto or other duplicating processes for delivery to the train by telegraphers.

"Employes not covered by the Telegraphers' Schedule at San Bernardino and other points on the system are required and/or permitted by the Carrier to daily handle train orders in the re-copying of same by ditto or other duplicating processes for delivery to trains by telegraphers."

CARRIER'S STATEMENT OF FACTS: "Train Order Operators at Winslow and San Bernardino handling slow orders addressed to a number of trains make not only a sufficient number of copies for immediate needs but use hectograph carbons so that additional copies of orders can be reproduced by Ditto or other similar process. Any employe in the Telegraph Office at the points named, who is available, makes the reproduced copies which are placed with the Operator at the train order table for handling in the regular way."

An agreement bearing date of February 5, 1924, as to rules, and January 1, 1928, as to rates of pay is in effect between the parties to the dispute.

POSITION OF EMPLOYES: "The Telegraphers' Schedule in part reads:

'SCOPE

**'This schedule will govern the employment and
'compensation of**

Telegraphers,
Telephone Operators (except Switchboard Operators)
Agent-Telegraphers,
Agent Telephoners,
Towermen,
Levermen,
Tower and Train Directors.

Block Operators,
Staffmen,

and such agents and other employees as may be shown in the appended wage scale.'

'ARTICLE II
CLASSIFICATION, NEW POSITIONS, ETC.

'(a) Where existing pay roll classification does not conform to the scope of this schedule, employees performing service in the classes specified therein shall be classified in accordance therewith.

'(b) When new positions are created, compensation will be fixed in conformity with that of existing positions of similar work and responsibility in the same seniority district.'

'ARTICLE XIII
HANDLING TRAIN ORDERS

'No employee 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 Position of the Employees that the Scope Rule covers the duties of 'handling of train orders' and has long since been recognized, therefore, the 'handling' thereof must be performed by employees coming under provisions of the agreement.

"Article 2, Paragraph (a) confirms and clarifies the Scope Rule with the language 'Employees performing service in the classes specified therein shall be classified in accordance therewith', which can only mean that employees **handling train orders** will come under the provisions of the agreement or will be prohibited from performing such duties.

"The Committee's further position is that Article 13 adds to and confirms the Scope Rule and Article 2, Paragraph (a) in that it specifically provides that no employee other than covered by the Telegraphers' Schedule and train dispatchers will be **permitted to handle train orders**. The **handling** of train orders has been definitely defined by the National Railroad Adjustment Board, Third Division, in its Award No. 86 reading:

"The rule is quite clear and requires no unusual interpretation. Doubtlessly it was made for the purpose of preventing encroachment upon that work to which the employees in that particular craft were entitled ***. Claim of the employee sustained.'

"The rule on which this Award was based is the same rule as Article 13 of the current Telegraphers' Schedule on this property.

"The Committee claims that the recopying of train orders by ditto or other process is **handling of train orders** the same as a conductor **handling train orders** by carrying them from one station to another and is in violation of the rules of the agreement."

POSITION OF CARRIER: "The Train Order Operators at Winslow and San Bernardino have been and are receiving, repeating checking, completing and delivering all train orders, and the reproduction process that is followed does not constitute handling of train orders under Article XIII of the Telegraphers' Schedule."

OPINION OF BOARD: The sole question for decision in this dispute is whether the work involved in the making of additional copies of train orders

from the original orders by ditto or by other mechanical process is a "handling of train orders" within the meaning of Article XIII of the agreement between the parties. This article provides:

"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 would appear that under a fair and reasonable interpretation of this rule, the handling of a train order should include not only the physical process of passing it from hand to hand in the performance of its function but also the work involved in its preparation. In the opinion of the Division the work of preparing train orders includes the making of additional copies as well as the making of originals. While the making of copies by a mechanical process may not be as important as other elements of the task of handling train orders, the Division is of the opinion that it is properly a part of the total task. It follows that the carrier violated Article XIII in assigning the work in question to an employe not covered by the Telegraphers' Agreement.

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 employes involved in this dispute are respectively carrier and employes 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 in the action complained of violated Article XIII of the agreement between the parties.

AWARD

The claim is sustained in accordance with above opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 3rd day of August, 1938.

DISSENT ON AWARD NO. 709, DOCKET TE-678

We dissent from the Opinion and Award in this case as we are convinced that they do not constitute "a fair and reasonable interpretation" of the rule. Indeed, they distort it into a meaning never intended or contemplated by its makers.

The evidence of record shows that the train order operators at Winslow and San Bernardino are receiving, repeating, checking, completing and delivering all train orders at those points. When additional copies are required, they are reproduced by ditto or hectograph process. Such reproduction is from the original made by the operator; no additional rewriting of the orders is performed by any other employe. This handling of the orders at the two points involved meets fully the intent and purpose of Article XIII.

/s/ A. H. JONES
/s/ R. H. ALLISON
/s/ GEO. H. DUGAN
/s/ C. C. COOK
/s/ J. G. TORIAN