

Award No. 1282
Docket No. TE-1147

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Ernest M. Tipton, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE ATCHISON, TOPEKA & 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 practice of the carrier in permitting and/or requiring section foremen at closed offices, where an operator is not employed, Uncas, Avery, Sparks, Kildare, Kendrick, McMahon, Lawrie, Britton and Seward, to regularly secure line-ups or positions of trains by telephone is in violation of the Telegraphers' Agreement and shall be discontinued."

EMPLOYEES' STATEMENT OF FACTS: "An Agreement bearing effective date of December 1, 1938 as to rules and rates of pay exists between the parties to this dispute. A copy thereof is on file with The National Railroad Adjustment Board.

"The wage scale of the Telegraphers' Schedule previously listed:

Uncas	agent-telegrapher	63¢	per	hour
Avery	" "	66¢	"	"
Sparks	" "	66¢	"	"
Kildare	" "	60¢	"	"
	telephone-clerk	55¢	"	"
Kendrick	agent-telegrapher	66¢	"	"
Lawrie	telephone-operator (2)	55¢	"	"
Britton	agent-telegrapher	63¢	"	"
Seward	agent-telegrapher	63¢	"	"
	telephone-clerk (2)	55¢	"	"

These positions have since been abolished. The rates therefor, if active, would be increased 8¢ each per hour, resulting from the 3¢ increase January 1, 1928 and the 5¢ increase August 1, 1937.

"The Carrier permits and/or requires section foremen at stations named in the Statement of Claim to regularly secure line-ups or positions of trains by telephone."

POSITION OF EMPLOYEES: "On August 6, 1937 there was filed with the Third Division of the National Railroad Adjustment Board, a joint submission, designated as Docket TE-573, the Statement of Claim and Employees' Position reading:

'STATEMENT OF CLAIM:

'Claim of the General Committee of The Order of Railroad Telegraphers, on the Atchison, Topeka and Santa Fe Railway that, in

more than a few minutes work per day is not only unreasonable and uneconomical but borders on the ridiculous. The necessity for section foremen receiving the benefit of train line-ups in connection with their work needs no comment from the standpoint of safety."

"The facts of record call for a denial of the claim."

OPINION OF BOARD: At Uncas, Avery, Sparks, Kildare, Kendrick, Britton and Seward, positions of telephone-clerk were formerly in existence and covered by the Telegraphers' Agreement. These positions have since been abolished. Since the abolishment of such positions, the carrier permits and/or requires section foremen at such stations and at McMahon (which has always been a blind siding) to regularly secure line-ups or positions of trains by telephone.

This claim involves the same parties, same agreement, same rules, and the same issues as were involved in Docket TE-1141, Award Number 1281. For the reasons assigned in that award, the Board holds that there was a violation of the 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 employees involved in this dispute are respectively carrier and employees 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 there was a violation of the agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1940.

Dissent to Award No. 1282—Docket No. TE-1147

This award is in error because it relies upon a former award, No. 604, the Opinion in which was incompletely comprehended, and upon the incomplete recognition of the facts of record rather than upon the agreement between the parties and the circumstances which surrounded the negotiation of that agreement relating to the unquestioned procedure and right of action of section foremen securing line-ups of trains in protection of their duties, and the lives of the men entrusted to their care as well as the lives of others.

The fallacy of upholding claims of Telegraphers for such inherent duties of section foremen is set forth in dissents to Awards Nos. 1261 and 1268, which dissents are hereby made a part of the dissent to the instant award.

S/ A. H. JONES
S/ C. C. COOK
S/ R. H. ALLISON
S/ C. P. DUGAN
S/ R. F. RAY