Award No. 1982
Docket No. TE-1843

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific Company, Pacific Lines that Telegrapher C. C. Goetz be compensated under Rule 10 of the agreement in effect and that certain Memorandum of Agreement dated January 3, 1938, for time consumed en route to and from El Casco, Los Angeles Division and for services performed at El Casco, Los Angeles Division, March 7 to 20th, inclusive, 1938.

EMPLOYES' STATEMENT OF FACTS: Due to heavy storms and flood conditions, Telegrapher C. C. Goetz was ordered to El Casco on March 7th, deadheading thence from Los Angeles by automobile, leaving Los Angeles 3 P. M., March 7th, 1938, arriving El Casco 9 P. M., same date. He was assigned hours 4 P. M. to 12 Midnight, March 8th, 1938 to March 19th and deadheaded El Casco to Los Angeles, March 20th, leaving El Casco by train at 2:50 A. M., arriving Los Angeles 6:00 A. M.

El Casco was not an open telegraph office immediately prior to the emergency which caused the establishment of the position at El Casco filled by Telegrapher Goetz.

El Casco is located on the Los Angeles Division, Beaumont Subdivision, 70.8 miles east of Los Angeles Passenger Station, (EXHIBITS "E," "I" and "J"), 13.7 miles east of Colton, (EXHIBITS "E" and "J"), 29.9 miles west of Palm Springs, (EXHIBIT "L"), well within the boundaries of the emergency territory. The first open telegraph office east of El Casco prior to the establishment of the emergency office was Beaumont, 9.3 miles and to the west, Colton, 13.7 miles.

We quote from EXHIBITS "E," "F," "G," "H," "I," "J," "L," and "M," excerpts establishing the emergency conditions obtaining in this area that caused the opening of the telegraph office at El Casco.

EXHIBIT "E"—

> "Los Angeles River still rising . . . two girders first crossing bridge at Dayton Avenue collapsed into river . . . bank of river cutting within 20 feet first track Taylor yard . . . 220-foot wooden structure at Wahoo washed away . . . Alhambra Avenue roundhouse and shop yards out of commission due to depth of water . . . Eaton wash breaking through several places . . . two feet of water in Colton yard . . . one abutment of bridge at Savannah washed out." (Savannah is near Bassett, Exhibit "E") . . . "considerable apprehension about Pacoima, San Gabriel and Tujunga dams. . . ."

trophe or emergency and used in direct connection with the said catastrophe or emergency. The El Casco station during the period March 7 to 20, 1938, does not come within this definition of an emergency office.

Applicable rates of pay for service performed by telegraphers when assigned to the El Casco station, are established by the current agreement (see paragraph 1, carrier's ex parte statement of facts). The said station since January 12, 1938, is not operated continuously, but is operated temporarily during certain periods, when, because of increased traffic it is necessary that a telegrapher or telegraphers be assigned thereto. At no time in the past has the petitioner contended that the carrier did not have the right to temporarily assign a telegrapher or telegraphers to the said station, as mentioned above, and to pay the said telegrapher or telegraphers in accordance with the agreed-upon rate mentioned above; furthermore, the petitioner has never contended that Rule 10 was applicable to such assignment or assignments. How the petitioner will distinguish between the operation of the El Casco station in the past when a telegrapher or telegraphers were assigned to the said station to assist in the handling of the increased traffic and the operation of the said station during the period March 7 to March 20, 1938, is beyond the comprehension of the carrier. The petitioner must admit that the use of telegraphers at El Casco between March 7 and 20, was solely for the purpose of assisting in the handling of increased traffic over the carrier's line between Los Angeles and Yuma.

CONCLUSION

The carrier having completely established that it properly compensated extra telegrapher Goetz for service performed at El Casco during the period March 7 to March 20, 1938, and having further completely established that the petitioner is in error in contending that extra telegrapher Goetz should have been compensated in accordance with Rule 10 of the current agreement and the memorandum of agreement dated January 3, 1938, for the said service, the carrier respectfully asserts that it is incumbent upon the Board to deny the alleged claim in the instant case.

OPINION OF BOARD: The principles involved in this case are identical with those in Docket TE-1840, Award 1979, this day decided. What is said in Award 1979 is controlling in the decision of this case.

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 employe involved in this dispute are respectively carrier and employe 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 claimant's work at El Casco was work at an emergency office within the meaning of rule 10, and the claim should be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of September, 1942.

DISSENT TO AWARD NO. 1982, DOCKET TE-1843

Dissent is expressed to this Award for the reasons given in our dissent to Award No. 1979, Docket TE-1840, issued concurrently.

/s/ R. F. Ray
/s/ C. P. Dugan
/s/ R. H. Allison
/s/ A. H. Jones
/s/ C. C. Cook