

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Henri A. Burque, 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 Roy C. Sheldon be compensated under the provisions of Rule 10 of the agreement in effect and that certain Memorandum of Agreement dated San Francisco, January 3, 1938, for all services performed at "NG" Office and "HU" Office, Los Angeles, Calif., en route to and from and on account of service performed at Saugus during the period March 5 to 30th, 1938.

EMPLOYEES' STATEMENT OF FACTS: Claimant Sheldon was ordered to perform service at the points named in Statement of Claim because of the existence of an emergency as referred to in Rule 10 of the Telegraphers' Agreement. Los Angeles, where service was performed March 5th to 16th and March 21st and 22nd, was within the limits of the emergency territory which extended westward on the Coast Line of the Los Angeles Division nearly one hundred miles to Summerland and westward on the San Joaquin Line about the same distance to Soledad Canyon and eastward on the Sunset Line to and beyond Colton, approximately 60 miles distant.

The Committee incorporates by reference as a part of this brief, EXHIBIT "E," Docket TE-2093, which gives the location of points where flood and washout conditions existed creating the emergency which caused the establishment of the positions worked by Claimant Sheldon.

The Committee quotes from the Southern Pacific Bulletin, Volume 22, No. 4, April, 1938 issue, in support of the position of the Committee that an emergency did exist:

"Los Angeles: Double-track bridge over L. A. River collapsed; 200 feet of embankment approach to Arroyo Seco bridge washed out; river bank cut back up to 80 feet at Taylor Yard, undermining tracks."

"Bassett: Two trestles to west over San Gabriel River and Eaton Wash, and others badly damaged."

"Branch lines: Extensive damage throughout area; roadbed undermined and side cut; necessary restore many washed out trestles."

"Colton: Lytle Creek cut channel 200 feet wide through yard, undermining tracks; yard covered with sand over one foot deep; 315 feet of Santa Ana River trestle and 135 feet of embankment washed out."

for deadheading and for services performed at Los Angeles and Saugus during the period March 5 to 16, inclusive, March 21 and 22 and March 25 to 30, inclusive, 1938, the carrier, therefore, respectfully asserts that it is incumbent upon the Board to deny the alleged claim in the instant case.

OPINION OF BOARD: This claim is governed by Docket TE-2281, Award No. 2403.

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 employee involved in this dispute are respectively carrier and employee 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 Claimant should be compensated under Rule 10.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 3rd day of December, 1943.

Dissent to

Award 2403—Docket TE-2281	Award 2408—Docket TE-2287
Award 2404—Docket TE-2282	Award 2409—Docket TE-2288
Award 2405—Docket TE-2284	Award 2410—Docket TE-2333
Award 2406—Docket TE-2285	Award 2411—Docket TE-2334
Award 2407—Docket TE-2286	Award 2412—Docket TE-2335
Award 2413—Docket TE-2336	

These Awards err in their adoption of extreme implications from certain prior awards which have followed a theory of causal connection in interpretation and application of Rule 10, Emergency Service.

This rule by its express and unambiguous terms, considered in the light of realism and practical knowledge, is confined to telegraph service at the scene of derailments, washouts, or similar emergency offices opened temporarily to deal with those emergent conditions. The rule does not comprehend telegraph service which the Carrier elects to continue or add otherwise to counteract results or conditions which, because of remote relation, may thus be said to have a so-called causal connection with the emergency.

Reference is made to our dissents in the prior awards which are considered in the Opinion of confronting Award 2403, Docket TE-2281.

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