

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**BERRYMAN HENWOOD, TRUSTEE,
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
OF TEXAS, DEBTOR**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on St. Louis Southwestern Railway Company of Texas, (1) that the unilateral action of the carrier in reinstating C. R. Thomas February 22, 1942, with a seniority date as of October 1, 1941, on the telegraphers' seniority roster of the Texas Division, which is the same date he held prior to his dismissal from the service January 10, 1942, violated the rules of the telegraphers' agreement; (2) that C. R. Thomas' seniority date should be as of the date he re-entered the service February 22, 1942, in accordance with Article 18-2 of said agreement; and (3) that all employees who have suffered financial loss as a result of exercise by C. R. Thomas since February 22, 1942, of seniority ante-dating February 22, 1942, shall be reimbursed for such loss.

EMPLOYEES' STATEMENT OF FACTS: An agreement bearing date of December 1, 1934, as to rules of working conditions, and December 1, 1941, as to rates of pay, is in effect between the parties to this dispute.

Telegrapher C. R. Thomas employed by the carrier under the telegraphers' agreement with seniority rating as of October 1, 1941, on the Texas Division, was dismissed from the service for cause on January 10, 1942, by Assistant Superintendent of the Texas Division, from which decision no appeal was taken within the time limit on appeals established by Article 27-3 of the telegraphers' agreement.

On February 22, 1942, without agreement with the General Chairman, but by unilateral action of his own, the Superintendent of the Texas Division reinstated C. R. Thomas to the service on a leniency basis with seniority rights restored to October 1, 1941, without pay for time lost, and placed him on the extra board.

The governing rules of the telegraphers' agreement are:

"Discipline and Grievances

"27-2. An employe disciplined, or who considers himself unjustly treated, shall have a fair and impartial hearing, provided written request is presented to his immediate superior within five (5) days of the date of the advice of discipline, and the hearing shall be granted within five (5) days thereafter.

In the present case Telegrapher Thomas returned to service under the provisions of Article 18-7. He had handled his case with the proper officers of the Carrier as contemplated by that rule, in the same manner and under the same conditions that other telegraphers have handled their requests as individuals; and retained his original seniority date in accordance with the rule, just as they retained their original seniority dates.

The rules contain no provision requiring that a telegrapher handle his case through the Committee, or that the approval of the Committee is necessary in order that he may retain his original seniority date. Instead Article 18-7 provides simply that if he is reemployed within six months after dismissal (or within time limits extended under the rule) he will retain his seniority. The interpretation requested by the Employees would change the rule to provide that if a telegrapher is re-employed within six months after dismissal (or within time limits extended under the rule) he will retain his seniority if approved by the Committee. The Carrier contends that such an interpretation is not justified, and respectfully requests that the claim of the Employees be denied.

OPINION OF BOARD. C. R. Thomas, a telegrapher with seniority dating from October 1, 1941, was finally dismissed from service for cause on January 10, 1942. Subsequently, on February 22 of the same year, Mr. Thomas was reinstated by the carrier, with seniority restored, and placed upon the extra board.

The rules governing this situation were fully considered and interpreted in Docket TE-2301, Award 2616. In the light of what was there said it is apparent that the carrier's action in the instant case was well within the terms 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 the carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 10th day of July, 1944.