

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Ernest M. Tipton, Referee

---

**PARTIES TO DISPUTE:**

**ORDER OF RAILROAD TELEGRAPHERS**

**MISSOURI PACIFIC LINES IN TEXAS AND LOUISIANA**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Order of Railroad Telegraphers on Missouri Pacific Lines in Texas and Louisiana, that H. F. Sudduth while regularly assigned to the position of agent-telegrapher at Jefferson Island, Louisiana, an isolated point was unjustly deprived of the privilege of living in the company house at Jefferson Island, December 20, 1941 to April 30, 1942, inclusive, and by virtue of this fact was forced to incur automobile hire every morning and night from and to his home at Delcambre, Louisiana, and the Jefferson Island station, except on Sundays, during this period at a daily out-of-pocket expense of \$1.20, or a total of \$135.60; and that agent Sudduth be reimbursed for the amount of this out-of-pocket expense he was unjustly required to incur.

**EMPLOYEES' STATEMENT OF FACTS:** Bulletin No. 46 December 6, 1941 called for applications for position of Agent, Jefferson Island.

H. F. Sudduth made application for and received appointment to the position.

At the time of bulletin (December 6, 1941) the position had been closed for several months due to the Jefferson Island Salt Mining Company having suspended operations account fire loss.

The Carriers business at Jefferson Island consists solely in handling the freight shipments of Jefferson Island Salt Mining Company. The Carrier owns property at Jefferson Island, which includes a depot and in connection therewith and under the same roof, living rooms which were designed for the accommodation of the agent.

All other property at and in the near vicinity of Jefferson Island is owned and controlled by the Jefferson Island Salt Mining Company.

Other than the aforementioned living rooms there are no living quarters available at Jefferson Island for the Agent of Carrier. Prior to the assignment of H. F. Sudduth December 6, 1941, the living quarters at Jefferson Island were assigned to and occupied by the agent.

There are no means of public transportation available at Jefferson Island nor is there any means of public transportation entering the town from the outside.

During the period December 20, 1941 to April 30, 1942, Mr. Sudduth was denied the occupancy of the Living Rooms owned by the carrier and

by the Telegraphers' Agreement does not live at the point where employed. For example, on this same division an operator regularly employed at Gordon lives at DeQuincy, seven miles distant, and travels to and from her residence and point of employment, but no claim has been made, nor does the Carrier make any allowance for transportation. In the case under consideration, the claimant was regularly assigned as agent-telegrapher at Jefferson Island, which fact is confirmed by the Employees in their Ex Parte statement of Claim, and the distance he traveled to and from the point where he lived and his place of work was approximately three miles. Many employees of the Carrier travel greater distances in going to and from their home and work, but the Carrier is not requested nor expected to furnish them their transportation. Therefore, it is clearly evident that to allow this claim would establish a far-reaching precedent for payments not authorized or contemplated in the agreement between the Carrier and The Order of Railroad Telegraphers.

The Employees' Ex Parte Statement of Claim contains the statement that Mr. Sudduth "was unjustly deprived of the privilege of living in the company house at Jefferson Island, December 20, 1941 to April 30, 1942 \* \* \*". In the first place, the Carrier has no "company house" at Jefferson Island; the only building at this point owned by the Carrier is the depot, which building is 29 feet wide and 37 feet long. The Employees, obviously, are referring to the depot in which the former agent was permitted to live for a while and in which the Salt Mining Company has since permitted the present agent to live. In the second place, there is a distinction between a privilege and a right. Under the circumstances here existing permitting the agent to live in the station at Jefferson Island is a privilege extended by the Carrier as a matter of grace; whereas any right of the agent to live in the station would be based on a contractual obligation of the Carrier, which is not here the case. The employees are not here asserting violation of any contract right, but the mere deprivation of a privilege.

When consideration is given to all the facts and circumstances involved in this case, together with the fact that there is no rule in the current agreement between the Carrier and The Order of Railroad Telegraphers to support the contention and claim of the employees and the further fact that it is not, for obvious reasons, the practice to allow regularly assigned employees expense incurred for transportation traveling to and from their home and place of work, it is clearly evident that the contention of the Employees should be dismissed and the accompanying claim accordingly denied.

**OPINION OF BOARD:** To sustain their claim the Employees rely upon Rule 2 (e) of the current Agreement, which reads:

"Any employee who thinks he has good ground for complaint in reference to his treatment, will be heard by the Division Superintendent and his complaint carefully investigated and cause removed, if any found, the complaint in question to be submitted in writing and the matter to be referred to the superior officers if satisfactory disposition cannot be made by the local officials."

An Agent-Telegrapher's position at Jefferson Island, Louisiana, became vacant and was bulletined. On December 17, 1941, H. F. Sudduth, being the senior bidder, was assigned the position. The bulletin did not state anything about living quarters at that place. The only place to live at Jefferson Island was a part of the station building, and from December 20, 1941, to April 30, 1942, Sudduth was forced to incur automobile hire every morning and evening from his home at Dalcambre, Louisiana, to Jefferson Island Station, and return, which totaled \$135.60 for this period. In this claim he seeks reimbursement.

We find that Rule 2 (e) does not support this claim, nor have we found any rule in the Agreement that would support this claim. This "Board must construe and apply Agreements as the parties make them, and it has no authority to change them, even to avoid inequitable results from their application." See Awards Nos. 794, 1248; also 2029.

**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 there was no violation of the Agreement.

**AWARD**

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST:** H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 23rd day of January, 1947.