

Award No. 4266
Docket No. TE-4230

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**CHICAGO, INDIANAPOLIS & LOUISVILLE
RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Indianapolis and Louisville Railway Company, that agent-telegrapher B. Tharpe, employed at Wallace Junction, Indiana, be paid for a call on each of the dates November 29, December 1, 2, 3, 4, 5, and 6, 1947, and for a call on each day since, when the Carrier required or permitted employes not covered by the Telegraphers' Agreement to secure line-ups at Wallace Junction by means of the telephone from other points at times when no telegrapher was on duty at Wallace Junction.

EMPLOYEES' STATEMENT OF FACTS: An agreement bearing effective date of July 1, 1929, is in effect between the parties to this dispute.

In the wage scale of this agreement, at page 19, the following positions are listed:

Wallace Jct.-----Agent and Telg'r.
Wallace Jct.-----2nd trick Telg'r.
Wallace Jct.-----3rd trick Telg'r.

A number of changes have since been made in these positions, and at the time the present claim arose only two telegraphers were employed at Wallace Junction, as follows:

Agent-telegrapher -----9:00 A. M. to 5:00 P. M. daily ex Sunday.
2nd trick telegrapher ----7:00 P. M. to 3:00 A. M. daily ex Sunday.

Thus, the office at Wallace Junction is closed, and no telegrapher on duty there between the hours of 3:00 A. M. and 9:00 A. M., and between the hours of 5:00 P. M. and 7:00 P. M. daily.

At, or about, 7:00 A. M. on each of the dates mentioned in the Statement of Claim the Carrier required or permitted section foremen and/or section laborers, employes not covered by the Telegraphers' Agreement, to enter the telegraph office at Wallace Junction and there perform the work of copying communications of record—line-ups—by means of the telephone from the agent-telegrapher at Gosport, Indiana, and/or other points. Said employes not covered by the Telegraphers' Agreement were furnished a key to the telegraph office at Wallace Junction.

Chief Dispatcher, as in the case of a train order. The information given does not supersede nor confer any right. No train receives the information, in fact, so far as the operation of trains is concerned, the information furnished the motor car operators might never exist.

THE CARRIER HOLDS:

- (1) The agreement was not violated.
- (2) The scope rule (1A) and the call rule (7C) have no bearing in the case.
- (3) Nothing in the agreement prevents a motor car operator from getting his line-up over the telephone from an operator covered by the agreement.
- (4) Motor car operators are not performing work that was allocated to telegraph operators, therefore, telegraph operators have not been deprived of work which they performed prior to the installation of telephones.
- (5) The request of the employees is for a new rule.

(Exhibits not preproduced.)

OPINION OF BOARD: By this Claim the Petitioner asks that the agent-telegrapher at Wallace Junction, Indiana, be compensated for calls for certain specified days and subsequently on account of the fact that a section foreman and other employees not covered by the Telegraphers' Agreement used the telephone for the purpose of obtaining and copying train line-ups.

As to all controlling points this Claim involves the same questions that were considered in connection with Award No. 4265, and on the authority of that Award the Claim must be denied.

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 the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of January, 1949.