

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
OF TEXAS

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri-Kansas-Texas Lines.

(1) That the transmission and reception of messages and reports of record by means of the telephone is work covered by the telegraphers' agreement, and shall be performed by employees under said agreement;

(2) That the Carrier violated the Scope Rule 1-(a) and Rule 1-(d) of the telegraphers' agreement, when, on March 26, 1948, it permitted or required an employee not under the telegraphers' agreement in the Glen Park Yard non-telegraph office, Kansas City, Kans., and permitted or required an employee not under said agreement in the Tulsa Division Freight and Passenger non-telegraph office, Okla., to receive by means of the telephone, a record of tank cars en route from Kansas City, Kans., to Grandfield, Okla.; and

(3) That as a consequence, the telegrapher in the Commercial Office at Kansas City, Mo., and the first trick telegrapher in the Freight Office at Tulsa, Okla., shall each be paid an additional day's pay at the minimum telegrapher rate under the provisions of Rule 1-(d) of the telegraphers' agreement for the day on which the above cited violation occurred.

EMPLOYEES' STATEMENT OF FACTS: An agreement bearing date September 1, 1947, as to rates of pay and rules of working conditions is in effect between the parties to this dispute.

The Glen Park Yard Office, Kansas City, Kans., and the Division Freight and Passenger Office, Tulsa, Okla., are non-telegraph offices, and no employees under the telegraphers' agreement are employed in those two offices.

The Kansas City, Missouri City Office, is a telegraph office where one telegrapher is employed, hours 8:00 A.M. to 5:00 P.M.; and the Tulsa Yard Office is a telegraph office where two telegraphers are employed, hours 8:00 A.M. to 4:00 P.M., and 7:30 P.M. to 3:30 A.M.

On March 26, 1948, at 11:20 A.M. an employee not under the telegraphers' agreement in the Glen Park Yard Office at Kansas City, Kansas transmitted by telephone to an employee not under the telegraphers' agreement in the Division Freight and Passenger Office at Tulsa, Oklahoma, a record of tank cars en route from Kansas City, Kansas to Grandfield, Oklahoma and Wichita

this property. It will also be noted Petitioner is making claim for telegrapher in the Commercial Office at Kansas City, Mo., while in his letter of April 6, 1948, Carrier's Exhibit "A", attached, he contends these conversations should be handled through the Tulsa telegraph office for Tulsa and through the Frisco telegraph office at Glen Park, in each of which offices telegrapher is employed and was on duty, and Tulsa and Glen Park, therefore, are not "closed or non-telegraph offices" within the intent, meaning and understanding of the Telegraphers' Agreement on this property. No agreement basis, therefore, exists and none has been or can be established by the Petitioner, to support these claims in view of the facts and evidence contained in this submission, and this claim is, therefore, without merit or agreement support and should be denied.

The Carrier respectfully requests that the Board deny the claim.

(Exhibits not reproduced).

OPINION OF BOARD: On March 26, 1948, an employe not under the Telegraphers' Agreement in the Glen Park Yard office, Kansas City, Kansas, transmitted by telephone to an employe not under the Agreement in the Division Freight and Passenger office at Tulsa a record of tank cars then en route, for the purpose of answering an inquiry of patrons of the railroad as to the location of those cars, which were intended for them. Both these offices were non-telegraph, with no employes under the Telegraphers' Agreement. Did this constitute a violation of the Scope Rule which forbids such handling of "messages, by telegraph, telephone or mechanical telegraph machines?"

As has been frequently noted, the Scope Rule of the Telegraphers' Agreement does not purport to specify the work encompassed within it. Except where limited or extended by negotiation, it includes the traditional and customary work of that craft and it has to do with communication service involved in the operations of the Carrier, comprehended by the words "messages, orders or reports of record". When the telephone came into use, it not only took over the work formerly performed by telegraphers, but added new facility and convenience of communication resulting in service which had not theretofore been performed by telegraphers. The communication involved in this claim concededly had no connection whatever with the actual operation of the railroad. It was not sent for the purpose of effecting the movement of any train, or the shipment or diversion of any freight, or for the protection of any employes or of the public, and it was not for any purpose of corporate records, but solely to extend a courtesy to a customer, to make for his convenience and the good will of the Carrier. There is no showing that such information was traditionally within the exclusive control of telegraphers or that it was customarily performed by them, or at all, prior to the advent of the telephone, and for us now to sustain this claim would shackle and penalize the Carrier in communications having no connection with the operation of the railroad or with any contract obligations but of importance, both to the Carrier and the Employes, only in the development of business and good will.

Claimant relies on ward No. 1657, but the message there sent pertained to diversion of a car. Award No. 4280 is more in point. The broad question raised in Claim (1) as to the transmission and reception of messages and reports of record by means of the telephone is not here involved and need not be further explored.

We must find that the communication complained of was not a violation of the Scope Rule.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing thereon;

That the Carrier and the Employes involved in this dispute are respectively carrier and employer 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

The Agreement was not violated.

AWARD

Claim 1 not here involved.

Claims 2 and 3 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 28th day of February, 1950.