

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**THIRD DIVISION**

J. Glenn Donaldson, Referee

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**ILLINOIS CENTRAL RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Illinois Central Railroad, that

1. The Carrier violated the provisions of the Telegraphers' Agreement when it required or permitted a section foreman, an employe holding no rights under said agreement to copy and handle a lineup by telephone at Shaw, Mississippi, a location where an employe covered by the scope of the agreement is employed, on January 12, 1949, and

2. Agent-Operator H. M. Jordan at Shaw, Mississippi, shall be compensated as provided in Article 3, Rule 10(a) of the agreement of June 1, 1939, for one call for work denied on January 12, 1949.

**EMPLOYES' STATEMENT OF FACTS:** An agreement by and between the parties bearing effective date of June 1, 1939 is in evidence, hereinafter referred to as the Telegraphers' Agreement, copies thereof are on file with the National Railroad Adjustment Board.

H. M. Jordan, claimant, was the regularly assigned agent-operator at Shaw, Mississippi, on the day named in the statement of claim, with assigned hours 8:00 A. M. to 5:00 P. M. with one hour allowed for meals. Prior to Jordon's assigned starting time of 8:00 A. M., a section foreman, an employe not under the Telegraphers' Agreement, whose headquarters are at Shaw, copied a train lineup by telephone direct from his home on the day specified in this claim at a time when agent-operator Jordan was not on duty.

Claim was filed in behalf of claimant H. M. Jordan, the regular incumbent of the agent-operator position, for payment on the basis of a "call" in accordance with the provisions of Article 3, Rule 10 (a) of the Telegraphers' Agreement on the ground that he was available and entitled to have performed this work but was not called. The Carrier declined to pay the claim.

**POSITION OF EMPLOYES:** The section foreman who has his headquarters at Shaw, Mississippi, resides near the railroad station in a home owned and maintained by the Carrier for this employe. This section foreman has a train dispatcher's telephone in his home, which was installed by the Carrier, for the purpose of copying and handling train lineups and other communication service with the train dispatcher at a time that the agent-operator at Shaw is not on duty. The agent-operator at Shaw copies and handles all lineups for section foreman during the time he is on duty.

**OPINION OF BOARD:** This submission differs factually from that submitted by the same parties in Docket No. TE-5291, subject of Award No. 5407, only in the following respects:

Section Foreman, headquartered at Shaw, Mississippi, but residing in a company-owned house two and one-half miles from the station in question, listened in on train dispatcher's phone installed by Carrier at said place of residence, and copied train lineups at a time when the Agent-Operator was not on duty at the station. When the Agent is on duty, the information is obtained from him.

The difference in facts is immaterial and what we have said in our Opinion in this beforementioned Award likewise applies here and need not be elaborated upon except to state that there is nothing to prevent the Section Foreman from phoning the Agent-Operator at Shaw for train lineups because under such circumstances the call is made in lieu of a personal trip or that of a messenger and permissive. The violation occurs in short-cutting the telegrapher whose tour of duty could have been advanced to cover the need, or he could have been called.

**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 use of the dispatcher's circuit at a station where an assigned Operator is off duty but available for a call by an employee not under the Telegraphers' Agreement to obtain train lineups is a violation of the Agreement between these parties and entitles the Operator to payment for a call on the date stated.

#### AWARD

Claims (1) and (2) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. I. Tummon  
Acting Secretary

Dated at Chicago, Illinois, this 27th day of July, 1951.