

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
ATLANTIC COAST LINE RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad, that:

(1) The Carrier violated the terms of the Agreement between the parties, when commencing March 26, 1948, at Quitman, Georgia, and May 13, 1948, at Dover, Florida, it required or permitted a section foreman, an employe not covered by said agreement, to copy and handle lineups of train movements by telephone, at a time that the telegraph service employes assigned at these stations were not on duty; and

(2) In consequence of such violations the incumbents of the telegraph service positions at Quitman, Georgia, and Dover, Florida, shall be compensated under the provisions of the Call Rule (Article 3(e)) of the current Agreement, for a 'call' on each day the violation has taken place, commencing on the dates listed in Paragraph (1), above.

EMPLOYES' STATEMENT OF FACTS: An agreement by and between the parties bearing effective date of November 1, 1939, and supplements thereto as to rules of working conditions and rates of pay is in effect between the parties to this dispute, and is hereinafter referred to as the Telegraphers' Agreement.

The schedule of positions and rates of pay attached to and constituting a part of that agreement lists at pages 30 and 33 the following positions respectively:

WAYCROSS DISTRICT—West End

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Quitman—clerk-telegrapher

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TAMPA DISTRICT

* * * *

Dover—agent-telegrapher

* * * *

been advanced by the petitioner in such petition and which have not been answered in this, its initial answer.

Data in support of the Carrier's position have been presented to the Employes' representative.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involves the receipt of lineups by section foremen over the telephone, in one case from the dispatcher and in another case from an adjoining station, at points where employes covered by the agreement are assigned but during hours when they were not on duty. It is contended that such action is a violation of the scope rule of the agreement between the parties.

This is not a new issue and while our awards are conflicting there is a fair degree of unanimity upon the proposition that where, as here, the scope rule lists positions instead of delineating work, it is necessary to look to tradition, historical practice and custom to determine the work which is exclusively reserved by the scope rule to persons covered by the agreement.

Upon the record before us it is impossible to say that the work involved has been exclusively reserved to telegraphers by tradition, historical practice and custom on this property. In fact, from the evidence presented, one might reasonably reach an opposite conclusion. Under such circumstances the claim is without merit.

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 Employes involved in this dispute are respectively Carrier and Employes 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 agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 12th day of January, 1953.