

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank Elkouri, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

NORTHWESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Northwestern Pacific Railroad, that:

1. Carrier violated the terms of the agreement between the parties when on June 5, 1952 and continuing thereafter it required or permitted train crew employees, who are not covered by said Agreement, to perform the duties of loading, unloading and checking baggage, express, milk and cream, U. S. mail and LCL freight between the train and the warehouse at the one-man station at Alderpoint, California, at a time that the Agent-telegrapher was not on duty; the claim involving the handling of LCL freight to be effective August 12, 1952.

2. These duties and the work involved shall be assigned to and performed by employees under said Agreement; and

3. Carrier shall be required to compensate the Agent-telegrapher at Alderpoint on the basis of a "call" payment commencing on the dates shown in paragraph 1 hereof on each occasion and each day the violations take place and shall continue until they are corrected.

NOTE: The actual number of days involved, and the compensation due to be determined by a joint check of Carrier's records.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an agreement between the parties bearing a date of August 1, 1945 (reprinted September 1, 1951, including revisions). A copy of this agreement is on file with the Board and is hereby made a part of this dispute.

Alderpoint, California, is a one-man agency located at M. P. 209 on the South Fork Subdivision. The occupant of this position is also joint agent for the Railway Express Company. The assigned hours of the agent-telegrapher are 7:59 A. M. to 3:59 P. M. with one hour off for meal, Monday through Friday; rest days are Saturday and Sunday. The station is considered closed on the rest days, although claimant has been called out to work on Saturdays to handle business at his station.

Passenger train No. 3 is due Alderpoint 9:38 P. M. daily. This train has baggage, express, U. S. mail, milk and cream to load or unload daily

Rule 1, the Scope Rule, specifies the classifications of employees who come within the scope of the agreement. That rule does not contain any reference to work or the specific duties that may be required of the respective classes of employees named thereunder. Clearly, therefore, it cannot be said to support the claim in this Docket.

Rule 2 merely provides the basis for compensation, i. e., hourly-rated and monthly-rated positions for service performed by employees coming within the Scope of the Agreement and also provides the manner in which claims for compensation will be presented and handled.

Rule 6 provides for the payment of a two-hour call under the conditions provided in the rule.

Rule 9 concerns the rest days of the employees.

Rule 14 deals with seniority of employees coming within the Scope of the Agreement.

It is obvious that none of the rules cited by petitioner's general chairman provides any basis for the claim here presented. As a matter of fact in presenting this case to the Board, the petitioner is endeavoring to unnecessarily enlarge upon the work of employees covered by the Telegraphers' Agreement in the absence of any provision in the agreement supporting its position contrary to practices both generally and at the particular point here involved throughout the life of the current and prior agreements.

CONCLUSION

The carrier asserts it has conclusively established that the claim in this docket is without basis or merit and, therefore, requests that said claim, if not dismissed, be denied.

All data herein submitted have been presented to the duly authorized representative of the employees and are made a part of the particular question in dispute.

(Exhibits not reproduced)

OPINION OF BOARD: Except for two relatively short periods, Alderpoint, California, has always been a one-man (Agent-Telegrapher) station. The Claim herein is that the Carrier violated the Parties Agreement when it required or permitted train crews to handle so-called "head-end" work and LCL freight between the train and warehouse at Alderpoint when the Agent-Telegrapher was not on duty; the Claim is that the Agent-Telegrapher should have been "called" for such work and that he should now be paid a "call" for each day involved in the case. The record indicates that neither of the passenger trains which the Carrier operates through Alderpoint has ever been scheduled to arrive at that station during the Agent-Telegrapher's assigned hours and that the Agent-Telegrapher at Alderpoint never handled "head-end" work. The Record also indicates that at this station freight crews normally handled LCL freight, though the Agent-Telegrapher, when on duty, at times assisted them in such work. These facts considered, it must be concluded that the Claim of the Agent-Telegrapher at Alderpoint to the exclusive right to perform the work involved herein must be denied.

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

That the parties waived hearing on this dispute; and

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of July, 1957.