

Award No. 8107
Docket No. TE-7746

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul N. Guthrie, Referee

PARTIES TO DISPUTE:

ORDER OF RAILROAD TELEGRAPHERS

MISSOURI PACIFIC LINES (In Texas and Louisiana)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Lines in Texas and Louisiana, that:

(a) The Carrier is violating the scope rule of the Telegraphers' Agreement by permitting or requiring the Car Distributor at Kingsville, Texas, an employe not under the Telegraphers' Agreement, to regularly transmit and receive messages and reports of record by telephone; and

(b) That the performance of such work at Kingsville shall be assigned to and performed only by employes under the Telegraphers' Agreement.

OPINION OF BOARD: This docket is the resubmission of a claim which was before the Division in Docket TE-5643 on which Award 5644 was made on February 8, 1952. In that award the Division did not rule on the merits of the dispute, but instead dismissed the claim without prejudice because notice pursuant to the requirements of Section 3, First (j) of the Railway Labor Act had not been given the Clerks' Organization.

Petitioner in resubmitting the dispute in the instant docket asks that the Division consider and render an award on the merits of the claim as originally made in Docket TE-5643.

The issue presented in this docket is identical with the issue in Dockets TE-7748 and TE-7747 on which Awards 8105 and 8106 are made this day. The same discussion and conclusions are appropriate to the instant case.

As in those awards, Award 7466 is of special significance here.

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 Employee involved in this dispute are respectively carrier and employe 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 any decision on the merits must be deferred.

AWARD

Consideration of and decision on the merits is deferred pending notice by the Division to the parties, Carrier, Order of Railroad Telegraphers, and Brotherhood of Railway Clerks, as contemplated by Section 3, First (j) of the Railway Labor Act as interpreted by the Courts.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1957.