

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN PACIFIC COMPANY (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific Company (Pacific Lines) that:

1. Carrier violated the terms of the current agreement between the parties when it required or permitted employees classified as "wire chief" to perform the regular assigned duties belonging exclusively to the class of "printer machine operator" in General Telegraph Offices.

2. As a result of the violations the Carrier shall compensate the following extra printer machine operators on the dates and time listed, a day's pay of eight hours for work denied in "SW" Office:

August	7, 1954—M. J. Hedrick	8:00 A. M. to 4:00 P. M.
August	7, 1954—G. M. Case	4:00 P. M. to 11:59 P. M.
August	8, 1954—J. M. Blair	12:01 A. M. to 8:00 A. M.
August	8, 1954—M. J. Hedrick	8:00 A. M. to 4:00 P. M.
August	10, 1954—T. E. Bassett	8:00 A. M. to 4:00 P. M.
August	10, 1954—G. M. Case	4:00 P. M. to 11:59 P. M.
August	10, 1954—L. R. Mayfield	12:01 A. M. to 8:00 A. M.
February	13, 1955—Senior idle extra printer machine operator	4:00 P. M. to 11:59 P. M.

3. For work denied September 15, 1954 in "HU" Office, Carrier shall compensate printer machine operator R. K. Clifford a call payment of two hours at time and one-half rate.

4. On each date subsequent to the dates set forth in paragraphs 2 and 3 that the violation takes place at General Telegraph Offices the Carrier shall compensate the senior idle printer machine operator, extra if available, in the same office where the violation takes place, the applicable compensation as provided under the terms of the Agreement.

(Exhibits not reproduced.)

OPINION OF BOARD: The employees claim that the Carrier violated the terms of the effective Agreement between the parties when it required or permitted wire chief operators to perform the regular assigned duties belonging exclusively to the class of printer machine operator in General Telegraph Office "SW" El Paso and "HU" Los Angeles.

The Carrier states that by prior practice and by Rule 41(a) it is permitted to have a wire chief operator operate a teletype and an automatic printer machine and other automatic mechanical devices used to transmit or receive communications of record.

Rule 41, Section (a), reads as follows:

"Rule 41(a). Teletype and automatic printer machines, and other automatic mechanical devices used to transmit or receive communications of record, shall be operated by employees of one or another of the classes specified in Section (a) of Rule 1."

Rule 1, Section (a) lists both wire chief and printer machine operators.

The issue to be decided by this Board is whether or not the Carrier violated the Agreement when it permitted a wire chief operator to operate a printer machine to transmit or receive communications of record during the regular hours of his assignment.

Rule 41 states that such teletypes and automatic printer machines and other mechanical devices shall be operated by employees of one or another of the class specified in Section (a) of Rule 1. Wire chief and printer machine operators are two of the classes specified in Section (a) of Rule 1. There is no exception listed in Rule 41 (a) as to the General Offices outlined in Rule 20.

The Employees rely upon Awards 6704 and 9028. It is our belief that the Board when it rendered Award 6704 had not given due consideration to Rule 41(a), which states that a printer machine operator does not have the exclusive right to operate a teletype or automatic printer machine. The right to operate these machines is given to a Wire Chief or any other employee of the class specified in Sec. (a) of Rule 1, of this effective agreement. We do not read in Rule 20 any language that gives to the classification of Printer Machine (including teletype) Operators the exclusive right to transmit or receive communications of record on a printing machine. It is, therefore, believed that Award 6704 should have been based on the clear and unambiguous language, as is this award, on Rule 41(a). The factual situation presented by the parties that resulted in Award 9028 is quite different than the factual situation presented by the parties in this docket. The factual situation that was presented by the parties that resulted in Award 9028 was a claim that a Wire Chief had performed the work of a Mechanician. There is no rule in the effective agreement giving the Wire Chief the right to perform the work of a mechanician, therefore the Board that rendered Award 9028 did not have to take into consideration Rule 41(a) as we must do in this Opinion. For these reasons we have not followed Award 6704 and 9028.

It is, therefore, the finding of this Board that a wire chief operator may operate a printer machine to transmit or receive communications of record during his regular tour of duty to fill out his assignment.

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;

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 Agreement was not violated by the Carrier.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of December, 1959.

DISSENT TO AWARD 9116, DOCKET TE-8076

This is the third award, rendered by this Division, in which Rule 20 of the parties' agreement has been at issue on the question here involved.

Rule 20 is a special rule, limited in its application to the five General Telegraph Offices listed therein. The rule provides that positions in those offices shall be separated into seven specified classes. These classes are specified by the usual titles descriptive of the duties required of each class of position. Some of these titles are composite classifications, and are combined in a single listing. An example is class (2), as follows:

(2) Mechanics, Mechanics-Assistant Wire Chiefs.

Others are single classifications, such as:

(1) Wire Chiefs.

Awards 6704 and 9028 have construed the language used by the parties as manifesting their intent that work of the various positions cannot be intermingled except to the extent set out in the composite classifications.

The same question was here before us, where the Carrier had combined the work of operating a printer machine with that of a wire chief. Since there is no composite classification which combines work of the two categories, the Employees contended the rule does not permit such combination.

The Carrier relied on Rule 41, as it did in the prior case decided by Award 6704. Rule 41 is a general rule providing for the general proposition that printer machines will be operated by employees coming within the scope of the telegraphers' agreement. In Award 6704 the Board properly held that

general rule 41 must give way to the specific classifications contained in special rule 20, or, in other words, the award merely followed the well established principle that special rules govern the special conditions to which they apply regardless of other rules having general application.

But here, for the first time, an award holds that a general rule nullifies the intent of a special rule which has previously been interpreted by our awards in the accepted manner.

Award 9116 thus is completely erroneous, and leaves the Employees no alternative to submitting another claim in an effort to secure proper compliance with Rule 20.

For the reasons indicated I consider Award 9116 to be invalid, and I hereby register my dissent thereto.

J. W. Whitehouse,
Labor Member.