

Award No. 10857

Docket No. TE-8005

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Raymond E. McGrath, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
— Eastern Lines —

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway System; that

1. The Carrier violated and continues to violate the Agreement between the parties when, beginning September 1, 1953, without conference or agreement it arbitrarily removed the work of transmitting and/or receiving wheel reports from employes covered by the Agreement at Sand Creek, Kansas, and Purcell, Oklahoma, and delegated the performance thereof, by means of printing telegraph machines, to persons not under the Telegraphers' Agreement at the two stations involved;

2. The Carrier shall restore said work to the scope of the Agreement to be performed by employes covered thereby; and

3. For each and every eight hour shift that telegraphic communications work is performed by employes not covered by the Agreement at Sand Creek, Kansas, and Purcell, Oklahoma, by means of printing telegraph machines there located, the Carrier shall be required to compensate the senior idle extra telegrapher on the appropriate seniority roster in an amount equivalent to a day's pay at the rate applicable to the location and position; and, if there be no such idle extra telegrapher, then the Carrier shall pay the senior telegraph service employe idle on a rest day an amount equivalent to a day's pay on a day to day basis at the time and one-half rate of his position.

EMPLOYES' STATEMENT OF FACTS: An Agreement bearing effective date of June 1, 1951, between the parties, is in evidence.

This dispute involves a transfer of work always previously performed by employes covered by the Telegraphers' Agreement at Sand Creek, Kansas, and Purcell, Oklahoma, to persons not covered by said Agreement located in yard offices at these two points.

In conclusion, the Carrier reasserts that the instant dispute **should be either dismissed or denied in its entirety for the following reasons which are amply supported by the record:**

- (1) The National Railroad Adjustment Board is without authority to consider or determine the dispute, which clearly involves a long-standing jurisdictional question on the Carrier's property.
- (2) The dispute is one which may only be resolved by negotiation and tri-party agreement between the respondent Carrier, The Order of Railroad Telegraphers and the Brotherhood of Railway and Steamship Clerks.
- (3) The handling complained of is not violative of any rule of the Telegraphers' Agreement, hence the Employees' claim is entirely without support under the provisions thereof relied upon by the Employees.
- (4) The Employees' long delay in pressing for a final determination of the controversial issue which is the subject of the parties' disagreement requires a denial of the Employees' claim in the instant dispute.

The Carrier is uninformed as to the arguments the organization will advance in its ex parte submission and accordingly reserves the right to submit such additional facts, evidence and argument as it may conclude are required in reply to the organization's ex parte submission or any subsequent oral argument or brief presented by The Order of Railroad Telegraphers in this dispute.

All that is herein contained has been both known and available to the employees and their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: The claims and the issues presented in this docket are the same as those ruled on the following Dockets:

TE-7855 — Award No. 8538
TE-7924 — Award No. 9005
TE-7925 — Award No. 9006
TE-8047 — Award No. 9454
TE-7969 — Award No. 10683
TE-8008 — Award No. 10776
TE-8007 — Award No. 10817

As to the facts—only the names of the Claimants and the place and dates of the alleged violations are different. The same issues have been decided in all of the above enumerated awards.

It follows that the Board's ruling here must be the same as in the above mentioned cases. The instant claims must be denied.

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 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of October 1962.