

Award No. 11818
Docket No. TE-10388

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

William N. Christian, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

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

1. Carrier violated the Telegraphers' Agreement when on Wednesday, December 5, 1956, it required or permitted Maintenance of Way Foreman T. E. Meadows, an employe not covered by the Telegraphers' Agreement to perform the work of transmitting messages of record by telephone from a phone booth or a portable telephone near Bealeton, Virginia.

2. Carrier shall compensate Mr. P. B. Powell, rest day relief clerk-telegrapher, Orange, Virginia, who was available and off on his rest day, for eight hours' pay for the violation December 5, 1956. Carrier shall compensate in the amount of a day's pay, senior, idle employe under the Telegraphers' Agreement, Washington Division, for each and every day such work is performed by an employe not covered by the Telegrapher's Agreement.

EMPLOYEES' STATEMENT OF FACTS: Bealeton, Virginia is located 52.8 miles from Washington, D. C. and 31.9 miles from Orange, Virginia. There was an agent-telegrapher position at Bealeton, Virginia for many years but approximately in the year 1940, the position was abolished.

On December 5, 1956, Maintenance of Way Foreman T. E. Meadows, an employe not covered by the Telegraphers' Agreement used the telephone located at Bealeton, Virginia and transmitted to Mr. J. W. Shelton, the Chief Dispatcher at Alexandria, Virginia, the following message of record:

"FORM 1230

Bealeton, Va. 12/5/1956

JWS Alexandria, Va.

Conditional stop sign will be located at MP 54 and for reverse traffic Northbound track will be located at MP 52 from 7.30 AM to 4.30 PM December 6th.

T. E. Meadows

Time 1.35 PM"

ORT. Furthermore, former acceptance practices under the agreement in evidence fully support Carrier's action and negative the claim which the ORT attempts to assert.

(c) Prosecution by the ORT of the ridiculous demand which it has here presented is nothing more than part of a concerted effort to create work for telegraphers and exact money from the railway company for no justifiable reason whatever. The Board cannot be used as a tool in aiding and abetting the ORT in exacting money from the company and establishing make-work schemes, designed to force the carrier to revert to the horse and buggy days of railroading.

Claim being barred, and the Board having no jurisdiction over it, should be dismissed for want of jurisdiction. If, however, despite this fact the Board assumes jurisdiction, it cannot do other than make a denial award.

Carrier, not having seen the ORT's submission, reserves the right after doing so to make reply thereto.

All evidence here submitted in support of Carrier's position is known to employe representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same in all material respects as in Docket No. TE-10007, Award No. 11812. We adopt the opinion therein as determinative of the issues in this case.

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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of October 1963.