

Award No. 12607
Docket No. TE-12017

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, 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 (Pacific Lines), that:

1. Carrier violated the parties' agreement when on March 7, 1959, it required or permitted one E. L. Wilson, a clerk in the Oakland Diesel Shop at Oakland, California, an employe not covered by the Telegraphers' Agreement, to perform the work of telephoning a communication of record from the Oakland Diesel Shop to the telegrapher at Martinez, California.

2. The Carrier shall, because of the violation set out above, compensate Harriet E. Keough, regularly assigned third shift telegrapher-clerk, Oakland (16th Street) one special call.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an agreement by and between the parties to this dispute, effective December 1, 1944, reprinted March 1, 1951, and as amended.

At page 56 of said agreement are listed the positions existing at Oakland (16th Street) and other positions at Oakland, California, on the effective date of said agreement. However, subsequent to the rearrangement of the Carrier's telegraph service employes at Oakland (16th Street), Oakland (First and Broadway), Oakland (Kirkham Street), and Oakland Pier, the Carrier established around-the-clock telegraph service at Oakland (16th Street) and at Oakland (Kirkham Street).

At or about 11:57 A.M. on March 7, 1959, E. L. Wilson, a clerical employe in the Oakland Diesel Shop, telephoned the following message to the telegrapher at Martinez, California:

"Oakland Diesel Shop, March 7, 1959

Mr. Ersepke
On Train 226 Date, Martinez

"ARTICLE VIII.**CARRIERS' PROPOSAL No. 24**

Establish a rule or amend existing rules to recognize the Carriers' rights to assign clerical duties to telegraph service employees and to assign communication duties to clerical employees.

This proposal is disposed of with the understanding that present rules and practices are undisturbed."

In this connection, the interest of employees represented by the Brotherhood of Railway Clerks is further demonstrated by the fact that employees represented by both the Brotherhood of Railway Clerks and The Order of Railroad Telegraphers are signatory to the Agreement of August 21, 1954.

Attention is also called to Award 7826 on this property, where it was found that telephone call passing between train dispatcher and roundhouse foreman covering instruction from former as to crews to be called by latter did not involve the Telegraphers' Agreement.

The facts in this claim readily establish that the telephone conversation between the clerk at Oakland and telegrapher at Martinez on the date of this claim did not involve or contravene any provision of the current agreement. The conversation was purely an exchange of information pertinent to the normal functioning of the Mechanical Department, and in no manner involved the craft here making claim.

CONCLUSION

Carrier has conclusively shown herein the claim is unwarranted and totally lacking in merit, and if not dismissed for lack of proper notice to other interested parties, Carrier asks that it be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: On March 7, 1959, a clerical employe at the Oakland Diesel Shop telephoned the following message to the Telegrapher at Martinez, California:

"Mr. Ersepke
On Train 226, Date, Martinez

Mr. Ankerson, Sacramento phoned that steam engine 2582 is going to run light from Sacramento to Tracy then to Pittsburg for stationary boiler. Wants Mr. Ersepke to keep in touch with this movement and have road foreman of engines go to Pittsburg Steel Company and show them how to set engine up for stationary boiler operation at Pittsburg Steel Co. Engine leaving Sacramento this afternoon."

We cannot agree with the Petitioner that the "character of the communication transmitted by the clerical employe is the type of communication work long held by your Board to be the exclusive preserve of the employes subject to the Telegraphers' Agreement." This message does not involve the movement of trains or the safety of persons and property. This Division of the Board has adopted the principle that where the Scope Rule does not describe or define the work to be performed by the employes — and the Scope

Rule of this Agreement does not do so — then the Petitioner has the burden to show that the transmission of this type of message was by history, custom and tradition reserved exclusively to Telegraphers. This, Petitioner has failed to do. See Award 12122.

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 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 11th day of June 1964.