

Award No. 13701
Docket No. TE-13339

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Peyton M. Williams, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(Formerly The Order of Railroad Telegraphers)

SOUTHERN PACIFIC COMPANY
(Texas and Louisiana Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific Lines in Texas and Louisiana (Texas and New Orleans Railroad Company), that:

Claim NO. 1

1. Carrier violated the provisions of the Telegraphers' Agreement effective December 1, 1946, when on December 5, 1960, it required or permitted the Conductor of Work Extra 377 to handle train order No. 239 of December 5, 1960, at Amelia.

2. Carrier shall now be required to pay Telegrapher A. H. Webb a day's pay at the rate in effect at Tower 32, Beaumont, on account of this violation.

CLAIM NO. 2

1. Carrier violated the provisions of the Telegraphers' Agreement effective December 1, 1946, when on November 28, 1960, it required and/or permitted the Conductor of Work Extra 437 to handle train order No. 252 at China, Texas.

2. Carrier shall now be required to pay Telegrapher L. C. Richardson a day's pay at the rate in effect at Tower 32, Beaumont, on account of this violation.

EMPLOYES' STATEMENT OF FACTS: The violations that occurred in Claim No. 1 and Claim No. 2 were at locations listed under the Beaumont Subdivision of this railroad. This is presently the Lafayette Division of the railroad. For the purpose of understanding the relationship between the various locations, the following diagram is produced:

Carrier asserts, all conditions present in Award 7953 are present in this case and that the denial in that case is clearly controlling here, and respectfully requests that the claim be in all things denied.

OPINION OF BOARD: On November 28 and December 5, 1960, two different conductors for this Carrier handled train orders at points where no telegraphers were employed. The Claimants allege that Carrier violated the agreement when it required or permitted the conductors to take the train orders by telephone. Claimants ask for a day's pay.

An event similar to the ones described above occurred on this same property on January 1, 1952 and was the basis of the claim which was denied by this Division in Award No. 7953. Subsequent to Award No. 7953 this Division of the Board had before it claims from the same parties which were identical to that latter Award and to these instant claims; those claims arose as early as December 12, 1959 and continued through January 19, 1962 and were the basis of denial Awards in Awards No. 13491 through No. 13498.

The acts giving rise to the claims herein occurred within the period covered by the Awards mentioned above consequently, for us to sustain these claims it would be necessary for us to find that those Awards were palpably wrong. We cannot so find and therefore must deny these claims.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Carrier did not violate the Agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1965.