

Award No. 13715
Docket No. TE-12936

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

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

NEW ORLEANS AND NORTHEASTERN RAILROAD COMPANY

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

CASE NO. 1

1. Carrier violated the Telegraphers' Agreement when it caused, required or permitted employes not covered by the Telegraphers' Agreement to handle (copy and deliver) train orders as herein listed at points where there is no telegraph office.

Train Order No. 19, February 6, 1960, addressed to C&E Train No. 56 at Derby, Mississippi.

Train Order No. 64, February 13, 1960, addressed to C&E No. 154 at Mile Post 98.

Train Order No. 58, February 13, 1960, addressed to C&E No. 154 at Carriers.

Train Order No. 55, February 13, 1960, addressed to C&E No. 154 at Picayune.

Train Order No. 47, February 20, 1960, addressed to C&E No. 153 at Mile Post 136.

Train Order No. 8, March 6, 1960, addressed to C&E No. 41 at Laurel.

2. Carrier shall compensate W. M. Berger, senior idle extra telegrapher, one day's pay (8 hours) at the prevailing rate of pay for telegraphers on NO&NE Division, each day violation was permitted, namely, February 6, 1960, February 20, 1960 and March 6, 1960. Shall also compensate N. B. Jay, senior idle extra telegrapher on NO&NE Division, one day's pay (8 hours) at the prevailing rate of pay for telegraphers on the NO&NE Division, February 13, 1960, one day.

CASE NO. 2

1. Carrier violated the Telegraphers' Agreement when it caused, required or permitted employes not covered by the Telegraphers' Agreement to handle (copy, receive and deliver) train orders as herein listed at points where there is no telegraph office.

Train Order No.—, April 2, 1960, addressed to C&E No. 42 and handled at Mile Post 148 near Picayune, Mississippi.

Train Order No. 3, April 3, 1960, addressed to C&E No. 42 and handled at Vossburg, Mississippi.

Train Order No. 11, April 12, 1960, addressed to C&E No. 56 and handled on line of road.

2. Carrier shall compensate W. M. Berger, senior idle extra telegrapher, NO&NE Division, one day's pay (8 hours) at the prevailing rate of pay for telegraphers on NO&NE Division, each day or date violation was permitted, namely April 2, 1960, April 3, 1960 and April 12, 1960.

EMPLOYEES' STATEMENT OF FACTS:

CASE NO. 1

On February 6, 1960, a train dispatcher, by use of a radio telephone, transmitted direct to the train crew on Train No. 56 at Derby the following orders:

"Order No. 19
To C&E 56.

No. 41 forty one eng 2900 take siding and meet No. 56 fifty six eng 4156 at Lumberton.

Made complete 5:24 A. M. /s/ A.K.K."

"At Mile Post 98
Train Order 64
To C&E No. 154

No. 153 one hundred fifty three meet No. 154 one hundred fifty four eng 4269 at Shows Field instead of Richburg siding.

Complete 10:12 P. M. /s/ A.K.K."

"At Carriere
Train Order No. 58
To C&E No. 154

No. 153 one hundred fifty three meet No. 154 one hundred fifty four eng 4269 at Richburg siding instead of Derby.

Made complete 9:01 P. M. /s/ A.K.K."

The evidence of record does not support petitioner's contention that the agreement was violated, nor does it support the claims for pay. For the reasons set forth herein, the claims should be denied in their entirety, and carrier respectfully requests that the Board so decide.

(Exhibits not reproduced).

OPINION OF BOARD: The issue is whether on the property of Carrier telegraphers have the exclusive right "to handle (copy and deliver) train orders . . . at points where there is no telegraph office." In Awards Nos. 12150 to and including 12171 and Award No. 12935, each involving the same parties, Agreement and issue, we held, and do now reaffirm, that the Agreement does not vest telegraphers with the alleged exclusive right. Therefore, we will deny the Claim.

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 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 30th day of June 1965.