

**Award No. 14300**  
**Docket No. TE-13235**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Arthur Stark, Referee**

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**PARTIES TO DISPUTE:**

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

**JOINT TEXAS DIVISION of Chicago, Rock Island and Pacific**  
**Railroad Company — Fort Worth and Denver Railway Company**  
**(Burlington-Rock Island Railroad Company)**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on Joint Texas Division of Chicago, Rock Island & Pacific Railroad & Fort Worth Denver Railway, that:

1. Carrier violated the Agreement between the parties when on October 16, 1960, it required or permitted Engineer May of Extra 1252 South, a person not covered by the Agreement, to handle Train Order No. 18 at Donie, Texas.

2. Because of this violation Carrier shall compensate F. L. Rouse, extra employe, in the amount of one (1) days pay of eight (8) hours.

3. Carrier violated the Agreement between the parties when on October 20, 1960, it required or permitted Conductor Posey of Extra 1231 South, a person not covered by the Agreement, to handle Train Order No. 74 at Flynn, Texas.

4. Because of this violation Carrier shall compensate D. L. Knox, senior idle employe on October 20, 1960, in the amount of one (1) days pay of eight (8) hours.

5. Carrier violated the Agreement between the parties when on October 21, 1960, it required or permitted train service employes on Extra 857 North, persons not covered by the Agreement, to handle Train Order No. 72 at Karen, Texas.

6. Because of this violation Carrier shall compensate N. L. Cryar, idle employe on October 21, 1960, in the amount of one (1) days pay of eight (8) hours.

7. Carrier violated the Agreement between the parties when on October 21, 1960, it required or permitted Engineer Bendy of Extra 1205 South, a person not covered by the Agreement, to handle Train Order No. 79 at Flynn, Texas.

8. Because of this violation Carrier shall compensate E. R. Lummus, idle employe on October 21, 1960, in the amount of one (1) days pay of eight (8) hours.

9. Carrier violated the Agreement between the parties when on November 11, 1960, it required or permitted the Engineer on Train No. 75, a person not covered by the Agreement, to handle Train Order No. 14 at Dobbin, Texas.

10. Because of this violation Carrier shall compensate N. L. Cryar, senior idle employe on November 11, 1960, in the amount of one (1) days pay of eight (8) hours.

11. Carrier violated the Agreement between the parties when on November 13, 1960, it required or permitted a train service employe of Extra 851 North, a person not covered by the Agreement, to handle Train Order No. 30 at Ventura, Texas.

12. Because of this violation Carrier shall compensate G. McDonald, senior idle employe on November 13, 1960, in the amount of one (1) days pay of eight (8) hours.

13. Carrier violated the Agreement between the parties when on November 16, 1960, it required or permitted Engineer Ham of Extra 1235 North, a person not covered by the Agreement, to handle Train Order No. 41 at Dobbin, Texas.

14. Because of this violation Carrier shall compensate P. C. Friend, senior idle employe on November 16, 1960, in the amount of one (1) days pay of eight (8) hours.

15. Carrier violated the Agreement between the parties when on November 17, 1960, it required or permitted Engineer Fulton of Extra 1219 North, a person not covered by the Agreement, to handle Train Order No. 49 at Dobbin, Texas.

16. Because of this violation Carrier shall compensate D. L. Knox, senior idle employe on November 17, 1960, in the amount of one (1) days pay of eight (8) hours.

17. Carrier violated the Agreement between the parties when on November 24, 1960, it required or permitted a train service employe of Train No. 98, a person not covered by the Agreement, to handle Train Order No. 60 at North Corsicana, Texas.

18. Because of this violation Carrier shall compensate F. L. Rouse, idle extra employe on November 24, 1960, in the amount of one (1) days pay of eight (8) hours.

19. Carrier violated the Agreement between the parties when on November 9 and 10, 1960, it required Conductors, persons not covered by the Agreement, to handle Train Orders at Singleton,

Texas, at times the Agent-Telegrapher was not on duty at that station.

20. Because of these violations Carrier shall compensate Robert M. Hollis, Agent-Telegrapher at Singleton, Texas on the above dates in the amount of a call allowance for each day, November 9 and 10, 1960.

21. Carrier violated the Agreement between the parties when on November 18, 1960, it required or permitted a Conductor, a person not covered by the Agreement, to handle Train Order No. 58 and on December 3, 1960, it required or permitted a Conductor to handle Train Orders No. 33 and 34, at Singleton, Texas, at times when the Agent-Telegrapher was not on duty at that station.

22. Because of these violations Carrier shall compensate Robert M. Hollis, Agent-Telegrapher at Singleton on November 18, 1960, in the amount of a call allowance; and Carrier shall compensate G. L. Ahnstedt, Agent-Telegrapher at Singleton on December 3, 1960, in the amount of a call allowance.

23. Carrier violated the Agreement between the parties when on February 18, 1961, it required or permitted a member of the train crew of Extra 854 North, a person not covered by the Agreement, to handle Train Order No. 5 at Bardwell, Texas, at a time the Agent-Telegrapher was not on duty at that station.

24. Because of this violation Carrier shall compensate R. B. Starr, Agent-Telegrapher at Bardwell, Texas, on February 18, 1961, in the amount of a call allowance.

**EMPLOYEES' STATEMENT OF FACTS:** The Agreement between the parties, effective June 15, 1956, as supplemented and amended, is available to your Board and by this reference is made a part hereof.

This dispute arose from Carrier's action of requiring or permitting train and/or engine service employees, persons not covered by the Agreement, to handle train orders. In paragraphs 1 through 18 of Statement of Claim, these violations occurred at places where no telegrapher is employed. In paragraphs 19 through 24, the violations occurred at places a telegrapher is employed, but not on duty at the times train orders involved were handled by persons not covered by the Agreement.

A sampling of the train orders involved follow:

"October 20, 1960

Train Order No. 74  
To C&E Extra 1231 North at Flynn

Order No. 68 is annulled

Extra 857 South wait at Newly until 1240 AM for Extra 1231 North.

/s/ PFT (Dispatcher)

Complete 1106 PM

To Conductor Posey"

not available within the time limit provided by Rule 33, by conductors, enginemen and other employees examined on Operating Rules prevailed without question or dispute until some claims were filed in 1957, which were settled on the property and that did not change this accepted practice, which will be more specifically referred to later in this Submission.

The current agreement with The Order of Railroad Telegraphers, effective June 15, 1956, is on file with the Board and by this reference is made a part of this Submission.

**OPINION OF BOARD:** The claims in this case involve two sets of circumstances which the Petitioner contends constitute violation of the parties' agreement: (1) The copying of train orders by train service employees at six locations where telegraphers are not employed; and (2), the copying of train orders by train service employees on four occasions at two stations where telegraphers are employed, but were not on duty at the time the orders were handled.

Rules 1 and 33 of the agreement must be considered in disposing of this dispute. Rule 1 is the Scope Rule which, in paragraph (b), provides that improvements or changes in the manner of handling train orders will not serve to remove that work out from under the agreement.

Rule 33 is a variant of the so-called standard train order rule that has been the subject of many awards of this Board. The language used by these parties departs considerably from that of the standard rule. The rule provides in pertinent part:

"(a) No employees, except those covered by this agreement and train dispatchers, will be permitted to handle train orders at points where telegraph and telephone offices are located except in emergency, in which case the telegrapher or telephoner, if not on duty but available for duty and can respond within twenty minutes from time called, will be paid for a call under the provisions of Rule 5."

Both parties have presented a large amount of argumentation that is entirely irrelevant or plainly erroneous. We will confine our decision to the issues presented by the facts and application of the two rules mentioned.

In order to bring about application of Rule 1 (b), it must be shown that the acts complained of amount to improvement or change in the manner of handling train orders. Since no such showing has been made, we cannot say that this portion of the rule has been violated.

Otherwise, the Scope Rule is general in nature and the extent to which it was intended to reserve train order work to telegraphers must be established by competent proof. The record is devoid of such proof; consequently the disposition of these claims must be based entirely on Rule 33, which relates specifically to the handling of train orders.

We are unable to agree with the Employees' contention that the reference to telegraph and telephone offices was meant to make the rule applicable to any place where a telephone is located. Such an interpretation would be inconsistent with other language of the rule, and thus contrary to the rule

of construction requiring that recognition and value be given to every word used.

It follows that since Rule 33 has no application to those claims arising at places where no telegraph or telephone office is located, and since the Employees have not proved that violation of any other portion of the Agreement occurred at such places, we must reject the claims involved in Items 1 through 18 of the Statement of Claim.

In the cases covered by Items 19 through 24 of the Statement of Claim, train orders were handled by train service employees on three occasions at Singleton, and once at Bardwell. Telegraph or telephone offices are located at both stations, but the telegraphers were not on duty at the times involved. Rule 33 (a) plainly applies to these four claims.

This Rule clearly prohibits the use of employees other than telegraphers and train dispatchers to handle train orders at such places except in case of emergency. Under this rule it is incumbent upon the Carrier to show that an emergency was involved so as to justify its use of train service employees to handle the train orders. In this record Carrier has failed to provide any facts to support its position concerning alleged emergencies. Therefore, we must hold that Rule 33 (a) was violated.

For reasons stated, Claims 1 through 18 will be denied; and Claims 19 through 24 will be sustained.

**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 the Agreement was violated to the extent indicated in the Opinion.

#### AWARD

Claims 1 through 18 denied;

Claims 19 through 24 sustained, all in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 7th day of April 1966.

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