

Award No. 14370
Docket No. TE-11500

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

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

THE COLORADO AND SOUTHERN RAILWAY COMPANY

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

1. The Carrier violated the parties' Agreement when on August 9, 1958, it required or permitted Train No. 1 to deliver Train Order No. 52 to Extra 158 North at Nola, Colorado, which it had received at Trinidad, Colorado.

2. The Carrier shall, because of the violation set forth above, compensate Agent-Telegrapher H. M. Trickey, regularly assigned at Clayton, New Mexico, idle on his rest day, a day's pay at the minimum rate of the Division.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective October 1, 1948, including changes and agreed-to interpretations as of the reissue date of January 1, 1955, and as amended, including rate of pay effective December 3, 1954.

On August 9, 1958, the following train order was issued to Train No. 1 at Trinidad, Colorado, addressed to Extra 158 North between Besbar and Branson with the actual delivery of the train order being made by No. 1 to Extra 158 North at Nola, Colorado.

"Form 19

BURLINGTON LINES

Form 19

Train Order No. 52

August 9, 1958

To: C&E Extra 158 North c/o C&E No. 1 between Besbar and Branson
X Trinidad, Operator.

Extra 750 D South wait at Besbar until 7:15 P.M. instead of
until 5:40 P.M.

at the request of General Chairman Epstein, and this claim was never mentioned, either in behalf of H. J. Schiff, Jr. or H. M. Trickey, the claimant now named by the Petitioner in his letter to your Board dated May 12, 1959, wherein he serves notice of the intention of the Telegraphers' Organization to file an ex parte submission.

(Exhibits not reproduced.)

OPINION OF BOARD: The Railway Labor Act requires that:

"All disputes between a carrier or carriers and its or their employees shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employees thereof interested in the dispute." (Emphasis ours.)

The record here shows the claim was originally filed by the Local Chairman on September 4, 1958.

It further discloses that conferences were held by Carrier's Assistant to Vice President Wolfe and General Chairman Epstein on October 22, 1958; January 7, 1959; January 27, 1959 and March 25, 1959 and the claim here pending was not discussed on any of those dates.

Organization thus having failed to discuss the claim at any time on the property, it is now not properly before us, and will be dismissed.

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 Claim shall be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April 1966.

Keenan Printing Co., Chicago, Ill.

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