

Award No. 14653
Docket No. TE-12694

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

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

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri-Kansas-Texas Railroad of Texas that:

1. The Carrier violated the Agreement between the parties when it failed to give Agent-Telegrapher L. C. Parks proper advance notice of the abolishment of his position at St. Jo, Texas, August 4, 1960.
2. The Carrier shall now be required to compensate Mr. Parks for a day's pay for time lost due to lack of insufficient notice.

EMPLOYEES' STATEMENT OF FACTS: The facts behind this claim are substantially related by the following correspondence exchanged by the parties on the property:

"Muskogee, Oklahoma
August 8, 1960

Mr. R. B. George — Superintendent
MKT Railroad Company
Denison, Texas

Re: St. Jo Docket 1643-RO

Dear Sir:

Please refer to your Circular No. 41, dated August 4, file 513.07, advising:

'Effective at the close of business August 4, 1960, St. Jo, Texas agency will be closed and discontinued as a train order and telegraph office.

/s/ R. B. George
Superintendent'

assignments Rule 9 (O); also, the Agent-telegrapher's assignment at St. Jo was Monday through Friday and by this short notice that the station would be closed on Friday he is entitled to pay for that date by all the rules of the Agreement and fair play; furthermore, under the 40 hour week agreement, Rule 26, Section 1, paragraph (k) 1, you can't change the assignment by giving not less than 72 hours' written notice.

The Chief Dispatcher, Mr. R. O. Johnson called Parks on the dispatcher's circuit about 8:30 A. M. on August 4 and asked him if he had received the message that he filed August 3 and Mr. Parks advised that he had not. Mr. Parks lost August 5th, the date we are claiming and I think you owe the claim and it is our contention that you must pay it under the Agreement."

CARRIER'S STATEMENT OF FACTS: The Agent-Telegrapher, Claimant, at St. Jo, Texas was notified at 8:30 A. M., August 4, 1960 by the Chief Dispatcher that the station at St. Jo would be closed as authorized by the Railroad Commission of Texas, Docket No. 1645-RO, and his position as Agent-Telegrapher would be abolished effective 5:30 P. M. that date, nine hours' notice.

Claimant at that time advised the Chief Dispatcher that he desired to exercise his seniority to go to the extra list and would protect extra work that would not be available until 5:30 A. M., August 8, 1960 at Lancaster, Texas.

Prior to the closing of the station at St. Jo the position as Agent-Telegrapher was assigned eight hours each day, Monday through Friday, less Holidays.

Correspondence of the handling of this alleged claim on the property is attached hereto and made a part hereof, Carrier's Exhibit A.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue here is whether the notice given to Claimant L. C. Parks was sufficient under Rule 3 (g) of the Agreement requiring "reasonable advance notice where practical to do so."

Parks was the telegrapher at the station of Carrier at St. Jo, Texas. He was notified at about 8:30 A. M. on August 4, 1960, that his station would be closed at 5:30 P. M. on the same date. He lost one day's pay in effecting his placement elsewhere on the line. Actually, Carrier's General Superintendent had dictated the message on the previous day, but for some reason it was not filed or received by Claimant until the day of the closing.

Carrier had been authorized to close the agency by the Railroad Commission of Texas by order dated July 28, 1960.

Carrier offers no valid excuse for waiting until the day of the closing to notify the affected employee. Clearly, the notice given was not reasonable.

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.

AWARD

Claims 1 and 2 are sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 15th day of July 1966.