

Award No. 14664
Docket No. TE-14277

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 Company that:

1. The Carrier violated Rule 1 (a) Scope Rule, and sub-section (d) of the Telegraphers' Agreement when it required or permitted employees other than those covered by the Scope Rule of the Telegraphers' Agreement and sub-section (d) to copy train orders at the following places and times:

Date	Location	Handled By	Claimant Operator
8-29-62	Moran, Kan.	Condr. Geib	J. P. Tidwell
9-1-62	Kimball, Kan.	Condr. Doyle	J. P. Tidwell
9-6-62	Dunlay, Kan.	Condr. Rush	J. P. Tidwell
9-7-62	Moran, Kan.	Condr. Charles	R. G. Smothers
9-13-62	Vance, Kan.	Bkman. Baxley	W. R. Ryman
9-15-62	Moran, Kan.	Condr. Rush	W. R. Ryman
9-15-62	Paola, Kan.	Condr. No. 41	W. R. Ryman
9-15-62	Kimball, Kan.	Bkman. Gillihan	W. R. Ryman

2. For each such violation the Carrier shall be required to pay the Agent-Telegrapher at stations named, who have been assigned to these stations, a day's pay at the minimum rate for Telegraphers, plus the regular rate.

EMPLOYES' STATEMENT OF FACTS: The Agreement between the parties, which by this reference is hereby placed in evidence, provides:

"RULE 1. EMPLOYES INCLUDED

(a) These rules and working conditions shall apply to Agents, Freight Agents, or Ticket Agents, Agent-Telegraphers, Agent-Telephoners, Relief Agents, Assistant Agents, where they have charge of station, take the place of or perform the work of an Agent,

CARRIER'S STATEMENT OF FACTS: This alleged claim or dispute includes or consists of eight (8) alleged violations of Rule 1 (a) and 1 (d) of current Telegraphers' Agreement, effective September 1, 1949, as amended, between the parties.

The alleged claim for alleged violation of the agreement by Conductor on No. 41 at Paola, Kansas, September 15, 1962, as shown in Statement of Claim of the General Committee, has not been presented to and handled with the Carrier on the property in accordance with the provisions of Article V, Carriers' Proposal No. 7, August 21, 1954 Agreement, the amended Railway Labor Act, and Circular No. 1, dated October 10, 1934, of the National Railroad Adjustment Board.

The alleged claim for the second alleged violation of the agreement by Conductor Bush on No. 6 at Moran, Kansas, September 15, 1962, has not been progressed to the Board in the Statement of Claim of the General Committee, and is barred and not before the Board under the provisions of Article V, Carriers' Proposal No. 7, August 21, 1954 Agreement.

All of these alleged claims and violations involve the copying or receiving of train orders by member of train crew on telephone or radio at Dunlay, Vance, Moran and Kimball, Kansas, where an Agent or Telegrapher is not employed.

The Claimants on whose behalf the alleged claims were filed by the General Chairman under date of October 1, 1962, were employed as Agent-Telegrapher at Kincaid and Erie, Kansas, where no train orders were copied or received by anyone. The rail mile distance between the points where the alleged violations occurred and where the Claimants were employed is as follows:

Location	Claimant's Office	Miles
Vance, Kansas	Kincaid, Kansas	7.5
Dunlay, Kansas	Kincaid, Kansas	16.0
Moran, Kansas	Kincaid, Kansas	11.9
Moran, Kansas	Erie, Kansas	25.9
Kimball, Kansas	Kincaid, Kansas	29.8

No conference has been held by the parties to consider, and, if possible, decide this alleged dispute as required by the provisions of the amended Railway Labor Act and Circular No. 1, dated October 10, 1934, of the National Railroad Adjustment Board.

Attached hereto and made a part hereof is copy of the correspondence exchanged by the parties in the handling of these alleged claims on the property, Carrier's Exhibit A.

(Exhibits not reproduced.)

OPINION OF BOARD: No conference was held on the property in connection with this dispute. Under the circumstances we shall follow the weight of authority of such recent decisions as Award 14386, 14370 and 13563, and sustain Carrier's contention the matter is not properly before this Board.

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 does not have jurisdiction over the dispute involved herein.

AWARD

Claim dismissed.

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.