

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

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

1. Carrier violated the Telegraphers' Agreement when on Saturday September 17, 1960, and continuing on subsequent Saturdays thereafter, at its one-man station at Lawrenceburg, Kentucky, it deprived the regular assigned occupant, Agent-Telegrapher H. D. Kopp, of the work of waybilling carload shipments, by forcing Agent Kopp to bill a carload shipment on Friday, September 16, 1960, before the empty car was received for loading at Lawrenceburg, Kentucky, and then by having the conductor on local trains to notify the Chief Dispatcher by telephone when car was ready to move at a time when Agent Kopp was off duty but was available for this service.

2. Carrier shall compensate regular assigned Agent-Telegrapher H. D. Kopp, Lawrenceburg, Kentucky, for one call (two hours and forty minutes) at Lawrenceburg, Kentucky, time and one-half rate \$3.8850 per hour, total \$10.36, for Saturday, September 17, 1960, and for each subsequent Saturday thereafter in which this violation continues.

EMPLOYEES' STATEMENT OF FACTS: H. D. Kopp is the regular assigned Agent-telegrapher at Lawrenceburg, Kentucky, which is a one-man station. Lawrenceburg, Kentucky is located sixty-three miles east of Louisville, Kentucky and thirty-seven miles west of Danville, Kentucky on the Louisville Division of the Carrier's railroad. The position of agent-telegrapher has an assigned work week of Monday through Sunday, with assigned rest days of Saturday and Sunday. The assigned hours of the position are 7:00 A. M. to 4:00 P. M., with one hour off for lunch. The position has a negotiated rate of pay of \$2.50 per hour and the time and one-half rate is \$3.8850 per hour.

the claim demanded that the agent be paid a call on his Saturday rest day for work he actually performed during his regular working hours on Friday, it was entirely unsupported by any rule or provision in the effective Telegraphers' Agreement, and was declined by the Superintendent in his letter to the District Chairman of November 21, 1960, copy of which is attached as carrier's Exhibit "A".

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier's position is that this claim is barred by the provisions of Article V, Paragraph (c) of the Chicago Agreement of August 21, 1954, the pertinent provisions which read as follows:

" . . . All claims or grievances involved in a decision by the highest designated officer shall be barred unless within 9 months from the date of said officer's decision proceedings are instituted by the employee or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board . . . "

The record discloses that the decision of the highest designated officer declining the claim was rendered on June 16, 1961; that written notice of intention to file this claim was given to this Board by letter dated April 3, 1962, more than 9 months after the decision of the highest designated officer of the Carrier declining this claim.

The parties hereto did not agree to an extension of the 9 month limit and there wasn't any waiver of said time limit requirements by either the parties hereto.

Therefore, since this claim was not instituted within 9 months from the date of the Carrier's decision on June 16, 1961, this claim is barred and must therefore be dismissed. See Awards 12851; 14171 and 14429.

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 the Claim is dismissed for want of authority.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1966.

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