



Award No. 14895
Docket No. TE-14133

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

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

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka and Santa Fe Railway, that:

1. Carrier violated the terms of the Agreement between the parties when it permitted or required Section Foreman Reyes to transmit a telegraphic communication of record from Madera to Fresno, California, May 2 and 3, 1961.

2. Carrier shall be required to compensate Agent J. M. Campos for a call payment (3 hours pro rata) at the rate of the Agent's position, Madera, California, for each date, May 2 and 3, 1961, respectively.

EMPLOYEES' STATEMENT OF FACTS: There is an Agreement between the parties bearing an effective date of June 1, 1951, and by reference thereto is made a part hereof.

Section Foreman Reyes was required or permitted on the dates of May 2 and 3, 1961, to transmit a matter of record direct from the Madera station to Fresno Relay Office. The subject matter is reproduced herebelow for each date to show the similarity thereof:

"SV K DX
MADERA 442P MAY 2, 1961

Rogers Fresno
Ruegg Fresno
Ward Fresno
Holman Fresno
Bell Fresno

"3. The transmission of the message of record directly involved and governed the movement and operation of trains through the territory where order was in effect. The Scope Rule and Seniority rules of the Agreement protect work of this nature and preserve it exclusively for employees covered thereby.

"This is to advise that your decision is not satisfactory nor acceptable. The claims will be appropriately appealed.

Yours truly,

/s/ R. O. Norton
General Chairman"

The two claims were then consolidated and appealed to this Board as one dispute by President G. E. Leighty of The Order of Railroad Telegraphers in his letter of March 13, 1963, to Executive Secretary Schulty.

OPINION OF BOARD: The facts and circumstances upon which this claim is based are substantially the same as those in Award 14894. The same principles apply.

For the reasons stated in Award 14894, we are obliged to conclude that there is no merit to the claim.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of October 1966.

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