

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David L. Kabaker, Referee

PARTIES TO DISPUTE:

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

PANHANDLE AND SANTA FE RAILWAY COMPANY

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

1. Carrier violated and continues to violate the Agreement between the parties when on or about October 17, 1960, it purportedly abolished the position of agent-telegrapher at Truscott, Texas, and thereafter on all subsequent work days, required the agent-telegrapher at Benjamin, Texas, to suspend work on his regular position during regular work hours and perform service at Truscott.

2. Carrier shall be required to compensate W. H. Dodd, or his successor, an additional day's pay for each occasion on which he performs service at Truscott, on a day-to-day basis, until the violations are corrected, beginning October 17, 1960.

3. For extra employes, D. F. Jameson, F. M. Seaton, B. J. Estep, J. W. Hoffman, D. D. Moorhead, W. C. Allen, T. J. Bailey, J. F. Overton and R. E. Shafer, the Carrier shall be required to compensate the senior extra employe named above who is idle, for a day's pay at the straight time rate for each work day, beginning October 17, 1960, and continuing thereafter on a day-to-day basis until the violations are corrected.

EMPLOYEES' STATEMENT OF FACTS: Agreement between the parties, bearing effective date of June 1, 1951, is in evidence.

Beginning on or about October 17, 1960, the Carrier unilaterally declared abolished the agent's position at Truscott, Texas, and thereafter required W. H. Dodd, the Agent at Benjamin, Texas, to work at Benjamin from 8:00 A. M. to 12:00 Noon, drive to Truscott to work from 1:30 P. M. to 4:30 P. M., then return to Benjamin. The time spent driving to and from Truscott was included in his work assignment. His tour of duty ended at 5:00 P. M.

their jurisdiction; they cannot pre-empt the federal jurisdiction, covered by the Railway Labor Act in the field of collective bargaining agreements governing rates of pay and working conditions of employees of the Carrier. See Award 3738 and others.

The relation of a state law to a collective bargaining agreement made under the Railway Labor Act has been decided by the courts. The Supreme Court of the United States disposed of this question in *Railway Employees' Department, et al v. Hanson, et al* (351 U. S. 225) where it said:

' . . . a Union Agreement made pursuant to the Railway Labor Act has, therefore, the imprimatur of the federal law upon it and by force of the supremacy clause of Article VI of the constitution could not be made illegal nor vitiated by any provision of the laws of a state.'

Therefore, it is clear that the fundamental key or pivotal question is the violation of the Agreement.

Yours truly,

/s/ D. A. Bobo
General Chairman"

(Exhibits not reproduced.)

OPINION OF BOARD: This case involves the same parties and issues as in Award No. 15480.

Part 1 of the claim will be sustained.

Parts 2 and 3 of the claim are sustained to the extent that the claimants shall be reimbursed and made whole to the extent of the loss sustained by them resulting from the abolition of the position involved herein.

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 has been violated.

AWARD

1. Part 1 of the claim is sustained.
2. Parts 2 and 3 are sustained to the extent that the Claimants' W. H. Dodd, D. F. Jameson, F. M. Seaton, B. J. Estep, J. W. Hoffman,

D. D. Moorhead, W. C. Allen, T. J. Bailey, J. F. Overton, and R. E. Shafer shall be made whole for whatever monetary loss they suffered as a result of the abolition of the agent-telegrapher position at Truscott, Texas. Each shall be compensated with a sum equal to the difference between what he earned and what he would have earned had the position not been abolished.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1967.

**CARRIER MEMBERS' DISSENT TO AWARDS 15480, 15481, 15482
DOCKETS TE-12636, TE-12703, TE-13079
(Referee Kabaker)**

What was said in Carrier Members' Dissent to Award 15358 (which the majority followed in the instant cases) applies equally to Awards 15480, 15481 and 15482. We think these awards are ill-founded and we, therefore, dissent.

**W. B. Jones
R. A. DeRossett
C. H. Manoogian
J. R. Mathieu
W. M. Roberts**