

Award No. 15620
Docket No. TE-15941

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

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

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Central of Georgia Railway, that:

1. Carrier violated the Agreement between the parties when on July 23, 1964 it required or permitted Road Foreman of Engines J. O. Hagan to transmit messages at Goodwater, Alabama, at a time when the Agent-Telegrapher was off duty.
2. Carrier shall compensate M. C. Houston, Agent-Telegrapher at Goodwater, in the amount of a minimum call payment.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the Central of Georgia Railway Company, hereinafter referred to as the Carrier, and its Telegraphers, hereinafter referred to as the Organization or Employees, effective October 31, 1959, and as amended. This Agreement is available to your Board and is, by this reference, made a part hereof.

The rules of the Agreement particularly at issue in this dispute are as follows:

"RULE 1. SCOPE

(a) The following rules, regulations, and rates of pay shall apply to telegraphers, operators of mechanical telegraph machines, telegrapher-clerks, telephoner-clerks, telephone operators (except switchboard operators), agents, assistant agents and ticket sellers shown in the appended wage scale and such generally similar positions as may be hereafter established, agent telegraphers, agent telephoners, towermen, levermen and block operators, and employees whose duties require transmitting and/or receiving messages, orders or reports of record by the telephone in lieu of the telegraph, and others shown in wage scale attached hereto, who shall hereinafter be referred to as 'employees,' coming within the meaning of this Agreement.

The claim is without any semblance of merit because there is no rule, interpretation or practice to support it. The claim remains declined in its entirety as set forth in my full and final decision of January 18, 1965."

The next communication of record is the letter written September 17, 1965 by President G. E. Leighty of the Organization to Mr. S. H. Schulty, Executive Secretary, Third Division, National Railroad Adjustment Board, of the Organization's intent to file an ex parte submission thirty days hence.

The Organization has failed in all handlings on the property to prove their claim or to cite any rule, interpretation or practice which supports their claim. Not knowing of any rule, interpretation or practice that has been violated in any manner whatsoever, the Carrier has denied this baseless claim at each and every stage of handling on the property. The claim has absolutely no semblance of merit. It is a claim involving all-to-gain-and-nothing-to-lose insofar as the Organization is concerned in their efforts here and in other pending claims to attempt to gain exclusive rights and jurisdiction over all telephone conversations.

The rules and working conditions agreement between the parties is effective October 31, 1959, as amended. Copies are on file with your Board, and the agreement, as amended, is hereby made a part of this dispute as though reproduced herein word for word.

OPINION OF BOARD: The Carrier in this case alleges that the original claim as submitted by the Organization has been amended upon submission to this Board, and that the claim as now filed, had not been handled on the property in keeping with the requirements of Rule 20, Time Limits nor the Railway Labor Act. Hence, they contend that the claim is barred. Without commenting on this aspect of the case, we will proceed to the merits and render a decision based on other grounds.

The question to be resolved here is whether or not the conversation between the Road Foreman of Engines and the Train Dispatcher by means of telephone, constituted an "OS"ing of trains in violation of the Telegraphers' Agreement.

The preponderant body of evidence in this record reveals that the subject phone conversation between the Foreman and the Dispatcher was a general conversation concerning Work-Extra 176-204, coupled, on July 23, 1964. It pertained to work being performed by this rail train and as the Foreman himself stated, "it was not intended or given as an 'OS' for this or any other train. We talked about several trains. This is the same sort of conversation I have always had with Train Dispatchers every day I am on duty." There was a discussion as to when the first crew went off duty, which information was not requested by the Dispatcher, nor in fact was this information of any great import at the time. The conversation had nothing to do with the movement of the train and no communication of record was either made or required in connection with the movement of the train. (See Awards 9, 19, 32, Special Board of Adjustment No. 269, Central of Georgia.) We will deny the claim.

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 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 16th day of June 1967.