

Award No. 15667  
Docket No. TE-14543

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

Thomas J. Kenan, Referee

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**PARTIES TO DISPUTE:**

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

**MISSOURI PACIFIC RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad (Gulf District), that:

1. Carrier continued violations of the Scope Rule 1 of the Telegraphers' Agreement in requiring and allowing the Yard Office personnel in San Antonio to assume the communication duties previously handled by the telegraphers in 'MS' Office, San Antonio, between the hours of 10:30 P. M. and 6:30 A. M. each day since the abolishment of the third trick position about December 1, 1960.

2. Carrier shall compensate the 'MS' telegraphers who were idle on their rest days, assuming there were no available extra qualified relay telegraphers, 8 hours' pay at regular time \$2.7303 per hour, starting at the earliest date possible initiate to this claim.

3. Carrier shall compensate the telegrapher on rest days henceforth until acknowledgment and compensation has been made by the Carrier, the violations be discontinued or until third trick 'MS' restored and work is again restored to the proper office.

**EMPLOYEES' STATEMENT OF FACTS:** Prior to December 1, 1960, there were around-the-clock positions at "MS" Office, San Antonio. On or about December 1, 1960, the Carrier abolished the third shift position with assigned hours of 10:30 P. M. to 6:30 A. M. and installed a dispatcher's telephone in the yard office. Thereafter it required yard personnel to use the dispatcher's telephone to transmit messages to dispatcher or require the dispatcher to transmit messages to the yard personnel concerning inbound and outbound trains.

Claims were filed for specific dates in December 1960 and January 1961 and were originally submitted to your Board as part of Docket 13223. This dispute was withdrawn from your Board and submitted to Special Board of Adjustment No. 506, which rendered Award No. 5. Award No. 5 held that the Employees failed to comply with Article V of the August 21, 1954 Agreement in not giving the Assistant General Manager a rejection notice of his decision, and as a result the Special Board No. 506 held:

Palestine wherein the yardmaster inquired as to probable arrival time of trains at San Antonio in order that the yardmaster might plan his work accordingly, two telephone conversations involved giving the dispatcher the call figure on a train and one telephone conversation concerned an engine to be used on an outbound train.

9. The General Chairman in his aforementioned letter requested that this dispute be listed for hearing before Special Board 506 established on this property by the Carrier and the Telegraphers' Organization. However, the General Chairman did not understand that the agreement establishing the Board also contained provisions agreed upon by the parties limiting the Special Board to hearing only cases contained in the original list which did not include the instant claim and was not a case where the Carrier "adamantly refused" as stated by the General Chairman in his letter dated May 29, 1963, Carrier's Exhibit C.

(Exhibits not reproduced.)

**OPINION OF BOARD:** This claim constitutes a resubmission of a claim that was dismissed in Award No. 5 of Special Board of Adjustment No. 506.

This Board has held, in Award Nos. 9376 (Stone) and 9397 (Rose), that an award of dismissal is a final determination of a claim. Once having been dismissed, this claim cannot be presented again to the 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 is without jurisdiction to entertain the Claim.

#### AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1967.

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