

Award No. 15715
Docket No. TE-14435

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Harr, Referee

PARTIES TO DISPUTE:

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

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific (Pacific Lines), that:

1. Carrier violates the intent and terms of an Agreement between the parties when, without conference or agreement, it assigned the sale of air line tickets (United, American, Trans World, etc.) to Southern Pacific Agents at *(1) Madera, *(2) Willows, *(3) Pittsburgh, *(4) Lincoln, *(5) Auburn, *(6) Placerville, California and requires Agent-Telegraphers and/or other covered employes to sell air line tickets, handle air baggage, make air line reservations, and in general conduct air line passenger business for air line companies without additional compensation either in the form of an increase of salary or commissions.

*Handled as separate claims on the property.

2. Carrier shall, because of the violations set out in paragraph 1 hereof, compensate employes required to handle said air line tickets ten (10) percent commission on the total amount of air line tickets sold in accordance with the following:

(1) (a) F. B. Pietz, Agent-Telegrapher, Madera, California:

Ticket No.	Amount	Date Sold
162-6-902514	25.85	6-4-42
162-6-902515	25.85	6-4-62
163-2-270894	148.20	6-8-42
162-6-902516	52.25	6-8-42
164-1-898208	302.30	6-11-62
161-3-614214	41.10	6-14-62
161-3-614215	41.10	6-14-62
162-6-902518	159.00	6-20-62

Ticket No.	Amount	Date Sold
164-1-898209	166.25	6-25-62
014C-58076	228.30	6-25-62

1,190.20

Total Commission due - \$119.03

(b) On each date and in each instance subsequent to June 25, 1962, on which F. B. Pietz, or his successor sells air line tickets, Carrier shall compensate either or both in the amount of ten (10) percent commission on all air line tickets sold.

(2) (a) W. J. Allen, Agent-Telegrapher, Willows, California:

Ticket No.	Amount	Date Sold
UAL 162-6-90264	41.70	6-28-62

Total Commission due - \$4.17

(b) On each date and in each instance subsequent to June 28, 1962, on which W. J. Allen, or his successor sells air line tickets, Carrier shall compensate either or both in the amount of ten (10) percent commission on all air line tickets sold.

(3) (a) Emily Moeller, First Telegrapher, Pittsburgh, California:

Ticket No.	Amount	Date Sold
761931	127.90	6-29-62
761932	127.90	6-29-62
761933	86.90	6-29-62
761934	63.95	6-29-62
761935	63.95	6-29-62
761936	63.95	6-29-62
321483	145.10	7-8-62

679.65

Total Commission due - \$67.97

(b) On each date and in each instance subsequent to July 8, 1962, on which Emily Moeller, or her successor sells air line tickets, Carrier shall compensate either or both in the amount of ten (10) percent commission on all air line tickets sold.

(4) (a) C. Smith, Agent-Telegrapher, Lincoln, California:

Ticket No.	Amount	Date Sold
332076, 77	52.15	8-10-62

Total Commission due - \$5.22

(b) On each date and in each instance subsequent to August 10, 1962, on which C. Smith, or his successor, sells air line tickets, Carrier shall compensate either or both in the amount of ten (10) percent commission on all air line tickets sold.

(5) (a) M. R. Strawser, Agent-Telegrapher, Auburn, California:

Ticket No.	Amount	Date Sold
161-4-331717	52.65	8-18-62

Total Commission due - \$5.26

(b) On each date and in each instance subsequent to August 18, 1962, on which M. R. Strawser, or his successor, sells air line tickets, Carrier shall compensate either or both in the amount of ten (10) percent commission on all air line tickets sold.

(6) (a) O. M. Shannon, Agent-Telegrapher, Placerville, California:

Ticket No.	Amount	Date Sold
016-118418	160.90	10-9-62

Total Commission due - \$16.09

(b) On each date and in each instance subsequent to October 9, 1962, on which O. M. Shannon, or his successor sells air line tickets, Carrier shall compensate either or both in the amount of ten (10) percent commission on all air line tickets sold.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute, effective December 1, 1944, reprinted March 1, 1951, and as otherwise amended. Copies of said Agreement are, as prescribed by law, assumed to be on file with your Board and are, by this reference, made a part hereof.

The six (6) claims incorporated into this appeal were handled on the property separately. However, since the question at issue, namely, that employees required to handle air line tickets and other duties incidental thereto shall be paid ten (10) percent commission on the total amount of air line tickets sold, is the same in all of the claims which have been progressed on the property under identical rules and arguments, the Employees have, in the interest of brevity and to eliminate repetitious handling, incorporated the six claims into this one appeal. This procedure has been approved by your Board in Awards 10619 (LaBell); 11300 (Moore); 11174 (Dolnick); 4821 (Carter).

There are, as the substantive claims show, six (6) station locations involved in these complaints. The wage scale lists the positions existing at Madera, Willows, Pittsburg, Lincoln, Auburn, Placerville, California, on the effective date of the parties' Agreement as follows:

Location	Title of Position	Hourly Rate of Pay
Auburn	Agent - Monthly Rate	\$325.17
Lincoln	Agent-Telegrapher	1.9203
Lincoln	2nd Telegrapher-Clerk	1.7625
Lincoln	3rd Telegrapher-Clerk	1.6225
Placerville	Agent-Telegrapher	1.6225
Willows	Agent	1.9075
Willows	1st Telegrapher-Clerk	1.87
		1.6225

the normal course of handling in chronological order are attached as Carrier's Exhibit F, sheets 1 through 8, involving Claim No. 1(a) (Madera); Carrier's Exhibit G, sheets 1 through 8, involving Claim No. 2(a) (Willows); Carrier's Exhibit H, sheets 1 through 8, involving Claim No. 3(a) (Pittsburg); Carrier's Exhibit I, sheets 1 through 8, involving Claim No. 4(a) (Lincoln); Carrier's Exhibit J, sheets 1 through 8, involving Claim No. 5(a) (Auburn); and Carrier's Exhibit K, sheets 1 through 8, involving Claim No. 6(a) (Placerville).

When Carrier's Assistant Manager of Personnel denied the claims to Petitioner's General Chairman (see sheet 8 to each of Carrier's Exhibits F, G, H, I, J and K), he took exception to the claim for ". . . or his (or her) successor . . . on each date subsequent to . . ." on the premise such was not a proper claim, and then went on to state that no provision of the Telegraphers' Agreement requires payment of 10% or any other rate of commission for handling air line ticket sales.

(Exhibits not reproduced.)

OPINION OF BOARD: The question involved here is set out on page three of the employees' submission. They state:

" . . . that employees required to handle air line tickets and other duties incidental thereto shall be paid ten (10) percent commission on the total amount of air line tickets sold. . . ."

This is the claim as handled on the property and appealed to this Board.

The employees cite no rule of the Agreement to support their claim. They do cite numerous instances where telegraphers have been paid commissions for handling business for companies or agencies other than the Carrier.

Award 14595 (Ives) involved the same parties. In this Award we stated:

"This Board now is requested to establish a rate of pay for the services rendered by Claimant in the amount of 10 percent of all gross receipts from bus ticket sales. We have no authority to do so, as such action would constitute establishing rates of pay because of new duties, a function properly performed through negotiation and the mediation procedures contained in Section 6 of the Railway Labor Act, as amended. (Awards 7093, 8158 and 8201.) Therefore, we are compelled to dismiss the claim without consideration of the merits of the dispute."

This Board has no authority to decide the claim before us. This is a negotiable matter, and the claim will be dismissed.

See also Awards 7093, 12724, 13931 and 14311.

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 claim should be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1967.