



Award No. 15745
Docket No. TE-15399

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Thomas J. Kenan, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY
(Gulf District)

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

1. Carrier violated Scope Rule 1 and Rule 2(c) of the Telegraphers' Agreement when, on the 24th day of November, 1963 it required or permitted conductor on Train No. 7 to report the arrival of that train at Hearne, Texas.
2. Carrier shall compensate agent-telegrapher M. A. Cornelius, one call, three hours, at the pro rata rate, for this violation.

EMPLOYEES' STATEMENT OF FACTS: Hearne, Texas is a one-man station located on the Taylor Subdivision on the Missouri Pacific Railroad, Gulf District, 89.6 miles southwest of Palestine, Texas. There is an agent-telegrapher by the name of M. A. Cornelius assigned at this location. His assigned hours are 8 A. M. to 5 P. M. with meal hours 12 noon to 1 P. M. daily except Sunday.

At 12:40 A. M., November 24, 1963, the conductor on Train No. 7 contacted the train dispatcher at Palestine, Texas, and gave the following report:

"No. 7 just got here at 12:36 A. M. and we have about three hundred sacks of mail to handle."

The dispatcher acknowledged this report and by use of this information was able to arrange the future movement of trains, including Train No. 7 in that area.

Claim was made in behalf of agent-telegrapher Cornelius for one call as he was the agent-telegrapher assigned at Hearne, Texas, and entitled to perform the communication work at that location. The claim was appealed to the highest officer designated to handle claims and grievances and was declined by him. The claim is now properly before your Board for final adjudication.

The facts in connection with this dispute are as follows: The conductor of No. 7 did come in on the Dispatcher's telephone at 12:40 A. M. and said that he arrived at 12:30 A. M. and had 300 sacks of mail to handle. This information was unsolicited by the dispatcher and no use was made of the information to advance this train or any other train.

The awards of Special Board 506 sustained account specific arrival time was given were sustained because the information was used by the dispatcher to issue train orders. No such use was made of the information in the instant claim.

In view of the foregoing, Claim is declined.

Yours truly,

/s/ B. W. Smith"

OPINION OF BOARD: On November 24, 1963 the conductor on Train No. 7 used the station telephone at Hearne, Texas to call the train dispatcher at Palestine, Texas to report the following message:

"No. 7 just got here at 12:36 A. M. and we have about three hundred sacks of mail to handle."

The Board finds that this communication was similar to the communication held to be a train report in Award No. 15669 and that its transmittal by a train conductor was a violation of Rule 2(c).

The Carrier's arguments in this dispute were identical to those it made in Award No. 15669. The Board reaffirms its holding in Award No. 15669 as well as Award No. 14, Special Board of Adjustment No. 506.

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 employes involved in this dispute are respectively Carrier and Employes 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 was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of July 1967.

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