

Award No. 15867
Docket No. TE-16229

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

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees' Union on the Missouri Pacific Railroad (Gulf District), that:

1. Carrier violated the Agreement between the parties when, on the 30th day of December, 1964, it required and permitted Signalman T. Bryant, an outsider, to report directly to the train dispatcher in Houston, Texas, that Extra West passed Cortableau Bayou at 10:50 A.M. Also, Signalman Bryant obtained a train lineup directly from Dispatcher M. F. Martin.

2. Carrier shall compensate Senior Extra Telegrapher R. J. Touchette eight (8) hours at the pro rata rate of \$2.71 per hour, a total of \$21.68 for this violative act.

EMPLOYEES' STATEMENT OF FACTS: Cortableau Bayou, Louisiana, is located approximately 27 miles west of Baton Rouge, Louisiana, on the DeQuincy Division of the Missouri Pacific Railroad. There are no communication facilities maintained at this point other than a block telephone for use only in emergency. There is no question concerning an emergency on December 30, 1964, the date of the occurrence of the train report by Signalman T. Bryant to the Train Dispatcher in Houston that Extra West had passed Cortableau Bayou at 10:50 A.M.

The claim was made because of the train report by Signalman Bryant as well as the train lineup copied directly from Dispatcher M. F. Martin.

The claim was appealed to the highest officer and declined by him. The claim is now properly before your Board for final adjudication.

CARRIER'S STATEMENT OF FACTS:

1. There is an agreement in effect between the Missouri Pacific Railroad Company and the Employees thereof on the Gulf District represented by the Transportation Communication Employees' Union, which became effective

between 10:40 A. M. and 11:00 A. M., a spread of twenty minutes. In the face of this admission by the District Chairman, you amended the claim to state that the Signalman reported the Extra as passing Cortableau Bayou at 10:50 A. M. Your amended claim conflicts with facts conceded by the District Chairman that no time was given. You also eliminated from the statement of claim the contention that such action violated provisions of Rule 2(c); we agree Rule 2 (c) would not be involved even if the signalman had 'reported' Extra 746 passing Cortableau Bayou.

The elements which constitute a train 'report' are missing in this dispute; in addition to the fact that no train or enginemen were involved, no time was given nor was the information used to further the movement of any train.

In view of the foregoing, your claim that a signalman 'reported' Extra 746 is without support and claim is thereby declined.

Yours truly,

/s/ B. W. Smith

The case is now before your Board for adjudication.

OPINION OF BOARD: On December 30, 1964, a Signalman at Cortableau Bayou, Louisiana, telephoned the dispatcher at Houston, Texas, and asked for track and time authority to enter the track at Cortableau Bayou. The dispatcher asked if Train Extra West had passed the point where the signalman desired to enter the track. The signalman replied that such train had already passed that point. This, the Employees contend, was equivalent to an "OS" and constituted a violation of Rule 2(c) of the Agreement.

The facts in this case are similar to those in Award No. 15865 (Kenan). For the reasons therein stated, this claim is denied.

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 was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of October 1967.

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