



Award No. 16503
Docket No. TE-15163

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Railway, that:

1. Carrier violated the Telegraphers' Agreement when on the 5th day of March 1963, it caused, required or permitted an employe not covered by the Telegraphers' Agreement to copy a communication of record (lineup) by use of the telephone at Bremen, Georgia, after the assigned telegrapher was off duty and in so doing was performing work that belongs exclusively to telegraphers.

2. Carrier shall compensate B. Ferguson, the regular assigned telegrapher at this location, by paying him for one call, 2 hours and 40 minutes at time and one-half pro rata rate for the violation herein related.

EMPLOYEES' STATEMENT OF FACTS: Claimant B. Ferguson is the regular assigned telegrapher at Bremen, Georgia. This is a one-man station and Claimant Ferguson is the only employe assigned at this location.

On March 5, 1963 at 6:03 P. M., Supervisor Sweatt copied lineup No. 120 by use of the telephone after Telegrapher Ferguson was off duty. Lineup 120 read as follows:

"Bremen, Georgia 3/5/63 Lineup No. 120 to Sweatt:

No. 48 Engine 2924 Villa Rica now. No. 152 Engine 2558 Anniston 5:01 P. M. No. 8 left Bgham. 5:22 P. M. No call on No. 156. No. 12 on time. Extra 302 West at Douglasville now. No. 11 on time. No call on No. 153. This lineup void after 11:30 P. M.

/s/ C. R. G."

This lineup was copied direct from the dispatcher and repeated by Track Supervisor Sweatt, an employe not covered by the Telegraphers' Agreement.

This agreement is revised as of September 1, 1949 and shall continue in effect until thirty (30) days' written notice is given by either party to the other of desire to revise or modify in accordance with the provisions of the Railway Labor Act."

(Exhibits not reproduced.)

OPINION OF BOARD: At approximately 6 P. M. on Tuesday, March 5, 1963 some three hours after agent-telegrapher Ferguson had completed his normal tour of duty at Bremen, Georgia, Track Supervisor C. C. Sweatt used a company telephone in his own office to receive and copy a lineup from the dispatchers at Birmingham. Organization filed the instant claim for call in pay for work which it asserts should have been performed by the Claimant.

The contentions of parties and the findings of the Board in this case are substantially similar to those set forth in Award 16502. For the reasons set forth therein this claim must be denied.

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 Employee 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 25th day of July 1968.