

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

THE COLORADO AND SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Colorado and Southern Railway, that:

1. Carrier violated the Agreement, when on December 27, 28 and 30, 1965, and January 2, 3, 4, 6, 9, 10 and 11, 1966, it required or permitted an employe not covered by the agreement between the parties to receive communications over the telephone at Fort Collins, Colorado.

2. Carrier shall compensate Telegrapher G. W. Colvin, first trick telegrapher at Fort Collins, Colorado, for a two hour call at the time and one-half rate for each day listed above.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties effective October 1, 1948, including changes and agreed to interpretations to date of re-issue, January 1, 1955, and as otherwise amended, is available to your Board and by this reference is made a part hereof.

At page 36 of said agreement are listed, under Rule 38, rates of pay, the positions in existence at Fort Collins, Colorado, on effective date of said Agreement. For ready reference the listing reads:

Location	Classification	Rate per Hour
Fort Collins	Telegrapher	\$1.865
	Telegrapher	1.825
	Telegrapher	1.825

An Agreement between these same parties, effective October 1, 1918, under Article 1, listed the following positions at Fort Collins, Colorado:

Location	Classification	Rate per Hour - Cents
Fort Collins	Telegrapher	.52½
	Telegrapher	.50
	Telegrapher	.50

Under date of January 12, 1966, the District Chairman of the Telegraphers' Organization, Mr. Carlos Chacon, Trinidad, Colorado, presented the instant claim to Superintendent E. C. Ackerman, Denver, Colorado, and therein named Telegrapher G. W. Colvin as claimant for payment of a two hour "call" at time and one-half rate. He therein cited a portion of the telephone conversations previously referred to as "train consist" and labelled each conversation as "Communication of record". See Carrier's Exhibit D.

Under date of January 24, 1966, Superintendent Ackerman properly declined the claim initiated by the District Chairman and therein pointed out that "These phone conversations were not communications of record." Carrier's Exhibit E.

Under date of February 8, 1966, the General Chairman of the Telegraphers' Organization appealed to the highest designated officer of the Carrier Superintendent Ackerman's declination of the instant claim. Carrier's Exhibit F.

Under date of April 1, 1966, the highest designated officer of the Carrier replied to the General Chairman's appeal and, in addition to affirming the original disallowance of the instant claim, directed the General Chairman's attention to the indisputable fact that such telephone conversations by employees other than Telegraphers were historically and traditionally the custom when Telegraphers at Fort Collins were on duty around-the-clock and that such telephone conversations have never been considered work to which Telegraphers possess a monopolistic right to the exclusion of other employees. Carrier's Exhibit G.

Following discussion at conference in the Carrier representative's office on July 12, 1966, the Carrier reaffirmed declination of the instant claim and reiterated that the telephone conversations at issue were not "train consists" nor could such conversations be properly constructed as "Communications of record." Carrier's Exhibit H.

At the aforementioned conference the General Chairman was shown an actual copy of No. 77's "train consist" (Carrier's Exhibit I), which lists the initial, number and type of car, the individual tonnage thereof, commodity, if loaded, or kind of empty, destination, routing and consignee. In the telephone conversations at issue no car initials, numbers, car types, tonnage, etc., are involved, and the information desired is not recorded but, if written at the time is then discarded. See Carrier's Exhibit A, B and C.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue and the parties are identical to those in our Awards 16633 and 16634. For the reasons stated therein, we will deny the claim.

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 by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of October 1968.