



Award Number 17526

Docket Number TE-16778

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES
UNION**

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Kansas City Southern Railroad, that;

1. Carrier violated the agreement between the parties when on September 1 and on September 2, 1965, it required or permitted an employee not covered by said agreement to transmit a message.
2. Carrier shall compensate the senior idle telegrapher Trigg Street, Texarkana, Texas in the amount of a day's pay (8 hours) for September 1 and for September 2, 1965.

EMPLOYEES' STATEMENT OF FACTS: An Agreement between the Kansas City Southern Railway Company and this Union, dated January 1, 1956, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

This claim was presented and progressed in accordance with the time limits provided by the Agreement up to and including appeal and conference with the highest officer designated by the Carrier to receive appeals. Having failed to reach a settlement, the Employees now appeal to your Honorable Board for adjudication.

Texarkana, Texas is on the main line of the Kansas City Southern Railway, located 73 miles north of Shreveport, Louisiana and 45.6 miles south of DeQueen, Arkansas. There is a yard office at Texarkana in which formerly telegrapher-clerks were employed around the clock, 24 hours per day. On the dates the events occurred that resulted in these claims, only two telegrapher-clerks were employed at Texarkana, their assigned hours being 7:00 A.M. to 3:00 P.M., and 5:00 P.M. to 1:00 A.M. daily.

On September 1st and 2nd, 1965 respectively a yardmaster at Texarkana, an employee of the Carrier not covered by the Telegraphers' Agreement sent a message by the use of the telephone, (TCU exhibit 1, page 4) addressed to the conductor and engineer of train No. 16 (Northbound passenger train) at Shreveport, Louisiana to use track No. 5 at Texarkana. These telegrams were copied by the train dispatcher in Shreveport and then transmitted by telephone to the telegrapher on duty in Shreveport for delivery to train No. 16. On September 1st, the telegram was received by the telegrapher in

the operator on duty at Deramus Yard and I would appreciate advice from you if I have correctly interpreted your letter.

"Please advise."

The Organization replied February 28, 1966, in part:

"You have interpreted my letter correctly since I do consider this a violation of our agreement. It involves, directly, a train movement, and further the information was gained from one at Texarkana while the telegraphers were off duty and was not there to transmit this communication of record." (Emphasis added.)

From the foregoing, it is apparent that the sole issue to be resolved is whether the effective agreement was violated when the train dispatcher sent a message or communication to the operator on duty at Deramus Yard.

(Exhibits Not Reproduced)

OPINION OF BOARD: The record in this case is inadequate as a basis for a meaningful decision on the merits of the dispute.

The claim alleges violation of the Agreement when dispatchers at Shreveport transmitted messages to a telegrapher at nearby Deramus Yard. These messages were based upon telephone conversations with the Yardmaster at Texarkana, some 73 miles to the north, at a time when there wasn't a telegrapher on duty at Texarkana.

The claim asks reparation in favor of a telegrapher at Texarkana, but does not allege—at least directly—any violation at that point. The claim and remedy requested, therefore, are inconsistent, and thus requires a dismissal award without deciding any other issue that may be involved.

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 no proper question for decision is presented.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of October 1969.

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