



Award Number 17640

Docket Number TE-17164

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles W. Ellis, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

**SOUTHERN PACIFIC COMPANY—TEXAS AND
LOUISIANA LINES**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Southern Pacific Company (Texas and Louisiana Lines), that:

1. Carrier violated the Agreement between the parties when on July 20, 21, 27 and 28, 1966, it failed to properly fill the position of Agent-Telegrapher at Elsa, Texas.
2. Carrier shall compensate Mrs. B. C. Crafton for one day's pay (8 hours) at the time and one-half rate for each date claimed as a result of the above stated violation.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties effective December 1, 1946, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

On the dates that claim arose, Claimant B. C. Crafton was regularly assigned to the second trick telegrapher-clerk position at Skidmore, Texas, working 5:59 P.M. to 1:59 A.M., Friday through Tuesday, rest days Wednesday and Thursday.

Mr. John Barker is regularly assigned to the agent-telegrapher position at Elsa, Texas, with assigned hours 8:00 A.M. to 5:00 P.M., rest days Saturday and Sunday. On Wednesday, July 20; Thursday, July 21; Wednesday, July 27; and Thursday, July 28, 1966, Mr. Barker was performing service as an extra train dispatcher in Houston.

On July 20, 21, 27 and 28, 1966, Carrier required the agent at Santa Rosa, Texas, to perform service at both Elsa and Santa Rosa.

Claim was handled in the usual manner, including a conference, up to and including the highest designated officer of Carrier to receive claims and has been denied. Correspondence reflecting this handling on the property is attached hereto as TCU Exhibits 1 through 8.

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: J. W. Barker was assigned to position of Agent-Telegrapher at Elsa, Texas, a position listed in Rule 37 of the Agreement with the Order of Railroad Telegraphers (now Transportation-Communication Employees Union) and subject to the rules of the Agreement with that Union. Mr. Barker was promoted to be a train dispatcher June 17,

1965, but retained his seniority as telegrapher and as he was assigned to work extra as train dispatcher less than four (4) days per week, retained his assignment as agent-telegrapher.

July 20, 1966, Mr. Barker was summoned to Houston for service as extra train dispatcher. There was no extra telegrapher available to fill the vacancy at Elsa, July 20, 1966, and William Matthews, a telegrapher assigned as Agent-Telegrapher at Santa Rosa, Texas, the next open station, was instructed to look out after the Carrier's business at Elsa as was necessary. Elsa and Santa Rosa are 12 rail miles apart. This arrangement continued through July 30.

Claims were presented by Telegrapher (Mrs.) B. C. Crafton, assigned at Skidmore, Texas, 155 miles distant, for a day's pay at time and one-half rate of the Agent-Telegrapher position at Elsa, each date July 20, 21, 27 and 28, 1966, alleging she should have been called to have performed service as Agent-Telegrapher at Elsa on the claim dates which were rest days of her regular assignment at Skidmore.

The claims were declined as lacking merit under the agreement. Appeal was made by the District Chairman, TCU, which the Superintendent declined. General Chairman, TCU, appealed to Carrier's Manager of Personnel, highest officer of the Carrier certified to handle such matters, who on November 30, 1966, declined the claim. Conference December 12, 1966, failed to produce settlement of the claim. CARRIER'S EXHIBIT NO. 1 reproduces the correspondence.

(Exhibits Not Reproduced)

OPINION OF BOARD: The occupant of the Agent-Telegrapher position at Elsa, Texas, also holds seniority as a train dispatcher, and was used in the latter capacity from July 20 to 30, 1966. No extra telegrapher was available to fill the resulting temporary vacancy at Elsa. The Agent-Telegrapher at Santa Rosa, twelve miles away, was required to perform the necessary work at Elsa during this period in addition to his work at Santa Rosa.

Claimant, a regular assigned telegrapher at Skidmore, Texas, contended that she should have been permitted to work at Elsa on the claim dates, which are rest days of her regular position, and claimed compensation accordingly.

Carrier resisted the claim on the ground that no rule of the agreement either prohibits the action complained of or supports the claim as made. A careful analysis of the record requires a conclusion that no rule was shown to have been violated, therefore, the Employees have failed to establish any basis for the claim. For somewhat comparable cases, see Awards 6737, 12396 and 17262.

It is well established that the burden of proving all essential elements of a claim rests with the petitioner. This burden has not been met here, therefore, the claim must be denied for failure of proof.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 9th day of January 1970.