

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION DIVISION, BRAC

**SOUTHERN PACIFIC COMPANY
(Pacific Lines)**

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

1. The Carrier violated the provisions of the TCU Agreement, Rules 1, 2, 14, 16 and 17, at Modesto, California, when on March 31, 1965 it required or permitted employees not covered by the Agreement to give direct to the Train Dispatcher calls of trains and crew members.

2. Claim in behalf of Mr. E. C. Evans, regular assigned Agent-Telegrapher, Modesto, California, for a two (2) hour call at the overtime rate for March 31, 1965.

3. On each date and each instance subsequent to March 31, 1965, wherein similar violations of the Agreement are permitted by the Carrier at Modesto, California, the Carrier shall compensate Mr. E. C. Evans, or his successor, as provided for in applicable rules of the Agreement.

4. A joint check of the Carrier's records is requested to determine amount of compensation due claimants.

EMPLOYEES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

The dispute involved herein is predicated upon the provisions of the collective bargaining agreement between the parties, effective December 1, 1944, as amended and supplemented.

The claim arose when a member of the crew on a local freight train originating at Modesto, California telephoned the train dispatcher from that location and transmitted certain information while the Agent was off duty. The Employees maintain that the information transmitted by the train service employe, received and recorded by the dispatcher, related to the movement of trains and is of the type which belongs to the Employees.

about the particular conversation (which is simply personnel information) in any way involved or contravened rights reserved exclusively to telegraphers on this property. In this connection your attention is directed to Third Division Award 7326 and Award 35, Special Board of Adjustment 553.

The claim is not supported by any agreement or other references cited by you, and it is denied."

(Exhibits not reproduced.)

OPINION OF BOARD: The reasoning in Award 1 of Special Adjustment Board No. 100 and Award No. 35 of Special Board of Adjustment No. 553, involving similar situations, appears sound and supports our view that the type of communication in this case did not relate to train movements. We hold, therefore, that the Union has not shown violations of the TCU Agreement, Rules 1, 2, 14, 16 and 17, and that the claim must, therefore, be rejected.

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 25th day of June 1970.