Award No. 18325
Docket No. TE-18646

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION DIVISION, BRAC

SOO LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC on the Soo Line Railroad Company, TC 5707, that:

1. Carrier violated the agreement when it failed to call Telegrapher J. C. Pfahl to copy and handle train order at Soo Line Junction, Minnesota.

2. Carrier shall compensate Telegrapher J. C. Pfahl for one call or three hours at the pro rata rate of the operator's position at Soo Line Junction, Minnesota, on October 29, 30, 31, November 1, 2, 3, 4, 5, 6, 7, 8, 10, 11 and 12, 1968.

3. Carrier shall continue such compensation whenever similar claims are filed.

EMPLOYES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

The dispute herein is predicated on various provisions of the collective bargaining agreement entered into by the parties effective July 1, 1956. Claims were submitted to the proper officers of the Carrier, at the time and in the usual manner of handling, as required by agreement rules and applicable provisions of law. They were discussed in conference between representatives of the parties on June 26, 1969.

The controversy arose on October 29, 1968, in the St. Paul, Minnesota metropolitan area, when the Carrier began to use Northern Pacific telegraphers to handle train orders governing the movement of northbound Soo Line trains over Soo Line tracks.

Employes contend before the Board, that certain provisions of the collective bargaining agreement were violated. (These provisions are specifically set out in Section (d) hereof, Rules Relied On.) Carrier contended that the involved Northern Pacific telegraphers, being joint employes of the two Carriers, may properly perform the disputed work; that the Claimant in any event was not entitled to the compensation claimed because he was unavailable.

OPINION OF BOARD: The claim herein arose as a result of Northern Pacific towermen at Mississippi Street Tower, St. Paul, Minnesota, copying and delivering Soo Line train orders to Soo Line Roseport Transfer crews to govern movement over Soo Line tracks.

The record shows that the Northern Pacific towermen at Mississippi Street Tower have been joint employes for over fifty years. The Carrier contends that the handling of the train orders by the joint employes, which occurred off Carrier's line, is not in violation of the Agreement.

We find nothing in the Agreement to prohibit the joint employes from copying and delivering the train orders under the circumstances here involved. See Awards 13313 and 14968. The claim will, therefore, be denied.

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 Employes involved in this dispute are respectively Carrier and Employes 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 11th day of December 1970.

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