

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19445
Docket Number TE-18016

Frederick R. Blackwell, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
((Formerly Transportation-Communication Employees Union)
PARTIES TO DISPUTE: (
(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. Carrier violated and continues to violate the terms and intent of the current TCU Agreement at Anaheim, California, commencing retroactively sixty (60) consecutive calendar days from September 27, 1966, and continuing each day thereafter (exclusive of Saturdays, Sundays and holidays), when it requires or permits employees not under the TCU Agreement to perform work of telephoning communications of record at the District Freight and Passenger Office at Anaheim, California.

2. (a) Claim in behalf of the senior available qualified extra telegrapher for eight (8) hours pay at the minimum telegraphers rate on the Los Angeles Division for each date beginning retroactively sixty (60) days from September 27, 1966, and continuing each day thereafter subsequent to September 27, 1966 (exclusive of Saturdays, Sundays and holidays) until violations cease.

(b) If no qualified extra telegraphers available, then compensate the senior regular assigned telegrapher available due to observing an assigned rest day at Los Nietos, California, for eight (8) hours at the overtime rate of his or her position, on each eight (8) hour shift on each date (exclusive of Saturdays, Sundays and holidays), beginning retroactively sixty (60) days from September 27, 1966, and continuing until violations cease.

3. Carrier shall restore the work to the employees entitled to perform it in accordance with our Agreement.

4. Carrier shall be required to consent to and cooperate in a check of its records jointly with this Union to determine the facts in any dispute of fact which may arise in the course settling this claim, including but not necessarily limited to determination of instances of violation, identification of proper claimant for each instance of violation, rates and amounts due claimants, and certification of payments to claimants and restoration of the work.

OPINION OF BOARD: This is a Scope claim in which it is alleged that work covered by the TCU Agreement has been performed by employees outside the scope of the agreement. Petitioner, seeks wage compensation from September 27, 1966, until the alleged violations cease.

FACTS OF RECORD

The alleged violations occurred at Carrier's District Freight and Passenger Office at Anaheim, California, when employees at such location transmitted to, and received from, the telegraphers at "HU" General Telegraph Office at Los Angeles, messages containing car initials and numbers, arrival and delivery times and dates, train numbers, departure times and dates, and instructions for forwarding cars when empty. The communications were handled by telephone between the two offices which are about twenty-seven (27) miles apart.

On the property the Carrier asserted that the above practice has been in effect throughout the life of the current agreement and for many years prior thereto. Evidence in support of this contention was submitted of record.

RULINGS ON PETITIONER'S CONTENTIONS

Prior awards involving these parties and similar issues support a conclusion that the type of work here involved is not reserved exclusively to the complaining employees. The claim, therefore, will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1972.