

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19725
Docket Number TE-19682

Irwin M. **Lieberman**, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**
(Formerly **Transportation-Communication** Division. BRAC

PARTIES TO DISPUTE: (

(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the **Transportation-Communication** Division, BRAC, on the Chicago, Milwaukee, **St. Paul** and Pacific Railroad Company, T-C 5835, that:

1. Carrier violated the terms of Agreement May 18, 19, 20, 21 and 22, 1970, and continues to violate the terms of Agreement Monday through Friday of each week subsequent to these dates when it by-passes the Telegraphers at West **Yard, Sioux City**, Iowa and requires or permits the transmission and/or reception of car data and other **communications** of record at other offices in Sioux City by methods and procedures other than those established by Agreement, thus depriving telegraphers at West Yard of work to which they are entitled.

2. As a result of these violations, Carrier shall now pay D. P. Friedenbach one day's pay at penalty rate Monday May 18, 1970; R. R. **Doering** one day's pay at penalty rate Tuesday and Wednesday, May 19 and May 20, 1970; O. W. **Sandbeck** one call (3 hours at pro rata rate) Thursday and Friday May 21 and May 22, 1970, and

3. As long as these violations continue, Carrier shall pay D. P. Friedenbach **one** day's pay at penalty rate each Monday subsequent to May 18, 1970; R. R. **Doering** one day's pay at penalty rate each Tuesday and Wednesday subsequent to May 19 and May 20, 1970; O. W. **Sandbeck** one call (3 hours at pro rata rate) for each Thursday and Friday subsequent to May 21 and May 22, 1970.

OPINION OF BOARD: The dispute in this **case** is unique in that it is not the usual type of claim based on the removal of work from the scope of the Agreement, which is normally progressed to this Board. One need only analyze the statement of claims to ascertain that no telegrapher's work was transferred to, or performed by employees of other classes **or** crafts nor was it contracted out. The issue appears to arise from technological changes and differences in types of equipment used.

While the submission of the Organization as well as the correspondence on the property exhaustively set forth the history and development of the Telegrapher's Agreement, the Petitioner did not tell us what specific items of work were allegedly being performed outside the scope of the Telegrapher's Agreement, who was performing the work, or on what specific days any alleged violation took place. These facts are the essential ingredients in perfecting cases of this nature. Since the record is devoid of any probative evidence, we **will** dismiss this claim for lack of proof of any contract rule violation.

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 Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1973.