

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **19867**  
Docket Number **TE-14754**

Thomas L. Hayes, Referee

(Brotherhood of Railway, **Airline and** Steamship Clerks,  
( Freight Handlers, Express and Station **Employees**  
( (formerly **The Order of Railroad Telegraphers**)

PARTIES TO DISPUTE: (

(Southern Pacific Company, Pacific Lines

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad  
Telegraphers on the Southern Pacific (Pacific Lines), that:

1. Carrier **violated** the Agreement between the parties when on September **28**, October 4, 5, 6, 7 and **10**, 1962, and **continuing** each date thereafter, when work belonging to employees covered by the **Telegraphers'** Agreement **was re-** moved from the Scope Rule and the Carrier required or **permitted** employees of another class or craft, not covered by **the** Agreement, at **Delano**, California, to handle **communications** of record in the **form** of bad order car **reports**.

2. (a) Claim in **behalf** of **J. Parrish**, regularly assigned Telegrapher, Delano, California, or his successor, whose assigned hours are from **7:00** A.M. to **4:00** P.M., daily, except Sunday and Monday, rest days, for **a** special two (2) hour call at the overtime rate for **each** date September 28, October 4, 5, 6, 7 end 10, 1962.

(b) Claim in behalf of **W. G. Tranmer**, a regularly assigned 2nd Wire Chief-Telegrapher-Clerk, Fresno Yard, Fresno, California, or his successor, whose **assigned** hours are from 3:00 P.M. to 11:00 P.M. daily, except Monday and Tuesday, for a special two (2) hour call at the overtime rate for each date September **28**, October 4, 5, 6, 7, 1962.

(c) Claim in behalf of **Gus Adams**, regularly assigned Relief Wire Chief-Telegrapher-Clerk, Fresno **Yard**, **Fresno**, California, or his successor, whose **assigned** hours on October **10**, 1962 were from **3:00** P.M. to 11:00 P.M., for **a** special two (2) hour call at the overtime rate for October **10**, 1962.

OPINION OF BOARD: Shortly after midnight on each date, September **28**, October 4, 5, 6, 7 and **10**, 1962, a single clerk employed at Delano, **California** **could** not apply seals to certain refrigerator cars loaded with grapes for outbound perishable movement because some of the car doors could not be closed and locked. To **obviate** delay and to **make** sure that such cars would be properly sealed, the clerk at Delano telephoned a clerk at Fresno Yard Office and advised him **of car** numbers of those cars having doors which needed sealing.

Claimants contend that messages of the nature outlined above should be handled by employees under the **Telegraphers'** Agreement and that Carrier erred in allowing others not holding seniority under this Agreement to perform the work.

It is clear to the **Board** that the messages in question **were** directly concerned with the protection of perishable **commodities** and the necessity to have car repairmen at Fresno alerted to make **necessary** repairs to refrigerator cars.

Award No. 12 of Special **Board** of Adjustment No. 533, these parties, states that work belongs to these Telegraphers if it falls within one of the following categories:

"(1) relates to the control or movement of trains or safety of passengers or products, (2) is a **communication** of record as that term has been used in the decisions or (3) by tradition, custom and practice on the **property** has been performed by telegraphers to the exclusion of other employees."

In this case we are dealing with **telephone** conversations about refrigerator car doors that needed sealing and repairs were actually made on these **cars** after their arrival in Fresno Yard. The **messages** in question had a direct **bearing** on the safety of the perishable **commodities** being handled in the **cars** and the message work belonged to the Telegraphers under the criterion of Award No. 12 cited above which reads:

"(1) relates to the control or **movement** of trains or safety of passengers or products".

In view of the foregoing, we find that the disputed **communication** work should have been handled by **employees** under the **Telegraphers'** Agreement and the claims are therefore sustained.

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 violated. ...

A W A R D

Claims sustained.

NATIONAL RAILROAD **ADJUSTMENT** BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of **July** 1973.

CARRIER MEMBERS' DISSENT TO AWARD 19867, DOCKET TE-14754

For the reasons fully stated in the memorandum which the Carrier Members submitted to the Referee during the panel discussion of this case, the claim is clearly invalid and should have been denied.

H J Taylor

Hammond.

P. C. Carter

W.B. Jones

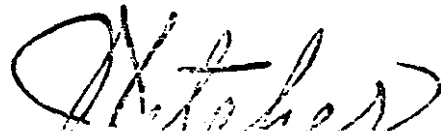
I'm your son

LABOR MEMBER'S ANSWER  
TO  
CARRIER MEMBERS' DISSENT TO AWARD 19867 (DOCKET TE-14754)

Disputes submitted to this Board are adjudicated upon consideration of the facts and evidence in the official record as detailed and explained by the parties to the dispute, not upon Carrier Member Memoranda.

Carrier Member Memoranda, regardless of length or sophistry, are not a substitute for, nor do they change, either the record or the facts.

The Dissent has no bearing on the validity of the Award.

  
J. C. Fleener,  
Labor Member  
628-73