

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Ernest M. Tipton, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE ATCHISON, TOPEKA & SANTA FE RAILWAY
COMPANY**

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers, Atchison, Topeka and Santa Fe Railway, that when the Carrier, without conference or agreement, removed from employes covered by the current Telegraphers' Agreement at Neosho Rapids and Olivet, the duties of loading and unloading mail, baggage and express between the station building and trains which arrive at said stations outside the assigned hours of the station employe, a part of whose duties it had been to load and unload this mail, baggage and express, and assigned these duties to members of train crews at such times and places, work which these men we represent had contracted to perform and had previously performed was improperly transferred to employes not covered by said Telegraphers' Agreement; that the work here involved be restored to station employes performing it previous to its improper transfer and that the agents at the stations mentioned above are entitled to pay at overtime rate for each occasion on which these employes not covered by the Telegraphers' Agreement have performed the aforementioned work."

EMPLOYES' STATEMENT OF FACTS: "An Agreement bearing effective date of December 1, 1938 is in effect between the parties to this dispute. A copy thereof is on file with the National Railroad Adjustment Board.

"The wage scale of the Telegraphers' Agreement shows;

Neosho Rapids	agent-telegrapher	73¢ per hour
Olivet	agent-telegrapher	70¢ per hour

the assigned hours of the agents are generally 8:00 A. M. to 5:00 P. M. on week-days, with one hour for meals between 11:30 A. M. and 1:30 P. M.

"At Neosho Rapids and Olivet, outside of the assigned hours of the agents, train crews are required to unload from their trains and place in the depot mail, baggage and/or express consigned thereto. Likewise, mail, baggage and/or express due to leave these stations is secured from the depot and placed in the train by train crews. Train crews are provided with facilities for entering the station building. Outbound express and/or baggage shipments received at the station outside of the agent's assignments and not billed by them are billed by train crews, express messengers, or train baggagemen."

POSITION OF EMPLOYES: "Local Chairman Clark directed a letter to Superintendent Arnold June 17, 1939, reading as follows:

OPINION OF BOARD: At Neosho Rapids and Olivet (covered by the Telegraphers' Agreement), outside of the assigned hours of the agents, train crews are required to unload from their trains and place in the depot mail, baggage and/or express consigned thereto. Likewise, mail, baggage and/or express due to leave these stations are secured from the depot and placed in the train by train crews. Train crews are provided with facilities for entering the station outside of the agents' assignments and not billed by them are billed by train crews, express messengers, or train baggagemen.

The Board finds that this claim was properly presented to the carrier. This claim involves the same parties, the same agreement, same rules, and the same issues that were involved in Docket Number TE-1140, Award No. 1273. For the reasons therein assigned, the Board holds that there was a violation of the Agreement.

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 there was a violation of the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 16th day of December, 1940.

Dissent to Award 1275—Docket TE-1145

This award rests upon the Opinion in Award No. 1273. The error of that award is set forth in dissent appended thereto which dissent is hereby made a part of the dissent to the instant award.

S/ A. H. JONES
S/ C. C. COOK
S/ R. H. ALLISON
S/ C. P. DUGAN
S/ R. F. RAY