

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific Company, Pacific Lines, that Telegrapher C. L. Travis be compensated under the provisions of Rule 10 of the Telegraphers' Agreement for service performed at Crystal Lake, California, Sacramento Division and while enroute thereto and therefrom, 11:10 A. M., February 3rd, to 6:15 P. M., March 1st, inclusive, 1938."

EMPLOYES' STATEMENT OF FACTS: "On February 3rd, 1938, Extra Telegrapher C. L. Travis was ordered to deadhead Sacramento to Crystal Lake and perform service at that point, 4:30 P. M., February 3rd, 1938. Crystal Lake is located on the Sacramento Division between Sacramento, California and Sparks, Nevada, at approximately M. P. 177.9. The first open telegraph office to the west of Crystal Lake is Emigrant Gap, a 24-hour office, 6.1 miles distant. The first open telegraph office to the east of Crystal Lake is located at Norden, a distance of 14.1 miles on No. 2 track and 14.2 miles on No. 1 track. No 2 track is located closer to the mountain than is No. 1 track. Under normal conditions, track No. 1 is the westbound track and track No. 2 is the eastbound track.

"Crystal Lake was made a 24-hour office during the period of time covered by this claim. No. 2 track was closed in the vicinity of Crystal Lake or between Crystal Lake and Emigrant Gap most of the time due to heavy snows, slides, derailments in the vicinity of Smart Station, which is located between Emigrant Gap and Crystal Lake. Crystal Lake is not normally opened but is used in times of emergency due to heavy snow fall, slides or other difficulties.

"The men at Crystal Lake handled cross-over switches between tracks Nos. 1 and 2.

"We quote from the March, 1938 issue of the Southern Pacific Bulletin, Volume 22, No. 3, which is published monthly by the Southern Pacific Company Bureau of News in the interest of, and distributed free to active and retired employees.

"Pages 1 and 2—

'One new all-time snowfall record was established in the Sierra; at least it's an all-time high for the 59 years of Southern Pacific recordings. A total snowfall of 341 inches, the heaviest ever recorded for any month or part of month at the Sierra summit, fell during the storm that settled over the mountains February 1 and continued, with but one day's break, through the night of the 14th. The snow reached a maximum depth of 234 inches at Norden on the latter date,

therefor, which ordinarily will be the minimum of five dollars (\$5.00) per month. Does not apply to staff operator-switch tender or draw-bridge tender (levermen).'

"We wish to emphasize the fact that when Crystal Lake station was reopened as a train-order and telegraph office February 3, 1938 it was not by reason of a **derailment or washout**, nor was it a **similar emergency office**, but on the other hand, was reopened on a seasonal basis, as has been done previously and since, to handle the increased traffic safely and efficiently, in consideration of the situation brought about by the heavy snow in the mountains.

"In the absence of any other rule which would sustain the claim, and the obvious inapplicability of Rule 10, we believe your Board will recognize that the claim presented is without merit and accordingly deny it."

OPINION OF BOARD: This claim is brought under the same Rule 10 as that in Docket Number TE-1297, Award 1322. The facts disclose that unprecedented heavy snow fell in the Sierra-Nevada Mountains in February, 1938. Carrier maintained a double track through the territory of this snow-fall and encountered serious trouble, which necessitated the establishment of a telegraph office at Crystal Lake and to which claimant was assigned. Crystal Lake is not maintained as an open telegraph office. The conditions necessitating the opening of this office are well described in two letters included in the record. The first is a letter from J. H. Tracy, an official of the carrier, as follows:

"Due to abnormal snow fall on the Sierra Nevadas during the period in question, snow fighting equipment was extensively used in this territory in order to keep the line open for traffic. There was constant danger of snow slides and as a precautionary measure the eastward track between Emigrant Gap and Crystal Lake which is close to hillsides, hence more likely to be affected by slides and more difficult to keep open for traffic, was taken out of service. This necessitated placing the remaining track under single track operation and required the establishment of telegraphers at Crystal Lake from February 2, 1938 to March 31, 1938."

C. L. Travis, the claimant, described conditions, as follows:

"Can not give you exact location of slides and tieups but assure you they were both numerous and of various degrees of severity. No. 2 track was tied up at time of my arrival there 4 P. M. Feby. 3rd and remained so for some two or three days. This track was cleared but not used for eastbound traffic for some days later account danger of additional slides. Would say from the opening of this office until closing in March No. 2 track was never free from the threat of slides.

"Communications on dispatchers talking circuit was out for several days and as office was only used in emergency no Morse wires were cut in until some week or ten days after job opened.

"Operator Dealy and I had light bed rolls of our own which we were compelled to use until Company furnished us with blankets two or three nights after arrival, and these had been sent us on flangers and were damp from melting snow.

"Thru the efforts of Roadmaster and kindness of Section Foremans wife we were able to obtain our meals otherwise would have had to furnish our own cooking equipment or ride to Emigrant Gap on flangers and helpers for food."

Carrier contends that the establishment of the office at Crystal Lake was simply to take care of unusual traffic in the same sense that offices are established on a "seasonal basis" to take care of traffic. We are unable to

agree with this contention. The record discloses that due to slides and danger of slides it was necessary to operate a single track from Emigrant Gap to Crystal Lake. The slides and constant danger of slides are obviously similar to derailments and washouts, and within the meaning of Rule 10. Cf. Award No. 395. The office was established to meet the conditions caused by the unprecedented snow fall which necessitated emergency telegraph service. "Constant danger of snowslides" as set forth in the letter of Mr. Tracy certainly constituted an emergent condition which required prompt action on the part of the carrier, and as long as this danger remained the emergency continued. We think it clear that Crystal Lake was an emergency office within the meaning of Rule 10.

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 employe involved in this dispute are respectively carrier and employe 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 Claimant's work at Crystal Lake was work at an emergency office within the meaning of Rule 10.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois this 10th day of January, 1941.

Dissent to Award 1323 (Docket TE-1298)

Rule 10—Emergency Service, is the sole rule involved in this Award, as in Award 1322 (Docket TE-1297). In the Dissent to Award 1322 we pointed out the non-applicability of the rule to periods following an emergency during which the Carrier elects to provide additional telegraph service in order to expedite train movements. So, too, we here point out the non-applicability of the rule to telegraphers seasonally employed to insure continuance of normal train movements at locations where it is apprehended that abnormal conditions may occur. Clearly, the necessity for the additional telegrapher here in evidence was the temporary resort to single, in lieu of double, track operation.

/S/ R. H. Allison
/S/ C. C. Cook
/S/ A. H. Jones
/S/ C. P. Dugan
/S/ R. F. Ray