

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Elwyn R. Shaw, 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 Wm. H. Whitney be compensated under Rule 10 of the agreement in effect for services performed at Casmalia, Coast Division, March 10th to 19th, inclusive, 1938."

EMPLOYES' STATEMENT OF FACTS: "Because of flood and washout conditions pictured in Exhibits 'H' to 'P' inclusive, Telegrapher Whitney was ordered by Carrier to and did perform service at Casmalia, Coast Division. Claim was filed as set forth in Exhibit 'C.' Exhibit 'H' indicates the location of the trouble on the San Joaquin Valley Line in Soledad Canyon between Lang and Russ and at Tunnel 25.

"Casmalia is located 83 miles beyond Santa Barbara which is shown on Exhibit 'H.' Casmalia is 208 miles from the Soledad Canyon. Casmalia is an open telegraph office for a portion of the day normally. Due to the emergency, this additional position was established.

"Factual material is found in Exhibits 'H' to 'P' inclusive, which Exhibits are photo offset reproductions from the Southern Pacific Bulletin, Volume 2, Number 4 (see bottom of Exhibit 'I'). The exhibits indicate that both of the lines between Los Angeles and the northern part of the System were in trouble. On the Coast Line, Exhibit 'H' shows the points of trouble extending from Los Angeles to the Summerland area. On the San Joaquin Valley Line, Exhibit 'H' shows the points of trouble at Tunnel 25, Soledad Canyon, Santa Clara River, Lang, Russ and Ravenna and Exhibit 'I' points out the trouble area further north, 'Caliente and Tehachapi Creeks,' 'slide starting in cut at Tunnel 12 near Marcel,' 'Tehachapi westbound main track washing out,' more complete quotations to follow.

"The emergency conditions existed on both Coast and San Joaquin Valley Lines, the Coast being opened for traffic before the San Joaquin Valley Line caused traffic normally routed via the San Joaquin Valley Line to be moved via the Coast Line. We quote and comment upon some pertinent paragraphs from these Exhibits:

"EXHIBIT 'H':

"Sketch shows the location of the points where actual track trouble existed. We have underscored in red both Coast and Valley points. The sketch shows Santa Barbara, the beginning of the Coast Line, Casmalia located 83 miles beyond Santa Barbara.

would probably overlap the hours of one of the other telegraphers, but eats his meal during on duty hours; this in accordance with Rule 3, hereinbefore quoted.

"The Carrier avers that the instant case is without support under the rules of the controlling agreement and should be declined."

OPINION OF BOARD: The principles involved in this case are identical with those in Docket TE-1538, Award No. 1493, this day decided. What is said in Award No. 1493 is controlling in the decision of this case.

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 Rule 10 is not applicable.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 2nd day of July, 1941.