

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Bruce Blake, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.

STATEMENT OF CLAIM: "Claim of the General Committee of the Order of Railroad Telegraphers that telegrapher C. R. Frye, Sayre, Oklahoma, is entitled under the call rule of the Telegraphers' agreement, to a call because about 7:00 A. M. November 24, 1939, the agent at that point whose position is classed as 'non-telegraph' was required to copy telegraph business which Mr. Frye should have been called on duty to copy, the telegraph office at Sayre being closed at that hour of the day."

EMPLOYEES' STATEMENT OF FACTS: "There is in existence an agreement between the Chicago, Rock Island and Pacific Railway Company and the Order of Railroad Telegraphers dated January 1, 1928, covering wages and working conditions of employees in the classes enumerated in the scope rule and occupying positions listed in the wage scale thereof.

"At Sayre, Oklahoma, as will be noted in the wage scale, page 42, of the contract, under caption 'Panhandle Division,' there are four positions shown; agent, first, second and third shift telegrapher, indicating that the agent is not required to telegraph as is designated by Article 4-(g). According to information the agent starts work at 8:00 A. M. and works eight hours over a spread of nine hours in accordance with Article 4-(i) of the agreement.

"Some months prior to this incident, one telegraph shift was discontinued and the hours of the two remaining shifts changed to cover hours from 10:30 A. M. to 6:30 P. M., and from 8:15 P. M., to 4:15 A. M., leaving two spaces of time when no telegraph work is performed, from 6:30 P. M. to 8:15 P. M., and from 4:15 A. M., until 10:30 A. M.

"November 24, 1939, at approximately 7:00 A. M., the dispatcher sent a message to the telegrapher at Elk City, Oklahoma and instructed that it be relayed to the agent at Sayre by commercial telephone instead of either calling the telegrapher at Sayre who was entitled to the work of handling this business or telephoning the message to him so that he could claim a call for the work; the agent not being required to handle business by telegraph or telephone as is shown by the designation of his position."

POSITION OF EMPLOYEES: "It is the contention of the General Committee that the agreement was violated, first, because an employee occupying a position not having telegraphing or telephoning as one of the duties connected therewith was required to take messages via telephone; second, telegrapher C. R. Frye whose shift ended nearest the time (7:00 A. M.) should have been called to the depot for the purpose of handling this telegraph business or the business given to him over the telephone so that he could have filed claim.

OPINION OF BOARD: Under the current agreement between the Carrier and the Organization four positions were provided for at Sayre, Oklahoma: agent and three telegraphers. Subsequently, one telegrapher position was abolished. The force at that station thereafter consisted of an exclusive agent (not required to telegraph) whose shift was from 8:00 A. M. to 5:00 P. M.; one telegrapher whose shift was from 10:45 A. M. to 6:45 P. M.; and one telegrapher (claimant Frye) whose shift was from 8:15 P. M. to 4:15 A. M. Thus there was a period of an hour and a half in the evening and six hours and a half in the morning when telegraphic communication could not be had with the station without violation of the agreement. For, under the arrangement—dispensing with one telegrapher and putting an exclusive agent (not required to telegraph)—no telegraphic communication could be made with the station except when one or the other of the two remaining telegraphers was on duty. The exclusive agent, of course, had no right to assume the telegraphers' functions.

It is a fair inference that, had a telegrapher been on duty at Sayre at the time in question, the dispatcher at El Reno would have wired him the message to reduce Ex 1721 east to 1300 tons and to transfer car GATX 5361 from Ex 1754 east to Ex 1916 east at point where 1754 was overtaken. It is established that claimant was available and could have been promptly located. The Carrier is obligated, under the agreement, to pay a telegrapher at Sayre for the call. It is not relieved of that obligation by reason of the fact that the agent at Sayre was advised of the message through commercial telephone by the telegrapher at Elk City. The claim is fully supported by the decisions of this Board in Awards 604, 919, 941, and 1563.

The Carrier makes the point that the claimant here is no more entitled to the call than the other telegrapher at Sayre. This may be—but that does not relieve the Carrier of its obligation to pay for the call. The other telegrapher is making no claim; and if he should the Carrier would not be required to pay twice. See Award 1248.

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 the Carrier violated the agreement in failing to call a telegrapher at Sayre upon the occasion in question.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of November, 1941.