

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Bruce Blake, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

MISSOURI PACIFIC RAILROAD COMPANY
(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes on the Missouri Pacific Railroad Company, that the Carrier's action in the Little Rock, Ark. Telegraph Department of requiring the occupants of messenger positions listed below:

One messenger assigned to hours of 7:00 A. M. to 4:00 P. M., exclusive of meal period, seven (7) days per week.

One messenger assigned to hours of 9:30 A. M. to 6:30 P. M., exclusive of meal period, seven (7) days per week.

to furnish and maintain at their own expense bicycles used in the performance of their duties as messengers in violation of the agreement, and

1. That the employes be relieved of the obligation arbitrarily imposed upon them by the carrier to furnish and maintain at their own expense bicycles for use in the performance of the company messenger service;

2. That the employes be reimbursed in such amounts as were involved in the purchase price of the bicycles in use on November 17th, 1940, on which date the employes formally presented this dispute to Mr. L. C. Gring, Manager CF Office, Little Rock, Ark., and also reimburse the employes to the extent of purchase price where it has become necessary to purchase a bicycle as a 'replacement' subsequent to November 17th, 1940, (amounts to be determined upon basis of purchase invoice); and

3. That the employes be reimbursed all moneys expended by them for maintenance cost while engaged in the service of the Company (Amounts to be verified by authentic receipted bills), subsequent to November 17th, 1940."

EMPLOYES' STATEMENT OF FACTS: "The messenger force in the Telegraph Department at Little Rock, Ark. CF Office on November 17th, 1940, subject to the scope and operation of the clerks' agreement, among other positions consisted of:

"Rule 36 is cited. This rule reads:

'The right of appeal by employes or their representatives in the regular order of succession and in the manner prescribed up to and inclusive of the highest official designated by the railroad, to whom appeal may be made, is hereby established.'

It is acknowledged by the Management that this case has been appealed through the channels provided for in the rule.

"Rule 74 reads:

'Typewriters and other office equipment devices will be furnished by the railroad at offices where the management requires their use.'

Never before have the Employes attempted to stretch this rule to include bicycles, the understanding of the rule and the practice followed in its requirements is limited to just what the rule says—typewriters and other office equipment. Bicycles could not be considered as 'office equipment.'

"Rule 82 reads:

'This agreement shall be effective August 1, 1926, and shall continue in effect until December 31, 1927, and thereafter until it is changed as provided herein or under provisions of the Railway Labor Act.

'Should either of the parties to this agreement desire to revise or modify these rules, thirty (30) days' written advance notice, containing the proposed changes, shall be given and conferences shall be held immediately on the expiration of said notice unless another date is mutually agreed upon.'

This is the terminating clause of the existing schedule. What bearing it could have on the 'dispute' is unknown to the Management. There has been no change made in the working conditions of these two messengers at Little Rock subsequent to the effective date of this agreement, viz.—August 1, 1926.

"The request of the Employes upon the National Railroad Adjustment Board is, in effect, one for a new rule to apply to the working conditions of our employes, in that they are asking for a rule that would require the Carrier not only to furnish bicycles to its messengers at Little Rock but to pay them for the use of their own privately owned bicycles retroactive to November 1940. This dispute not being one growing out of the interpretation or application of any agreement concerning the rates of pay, rules or working conditions of our employes, we question the jurisdiction of the National Railroad Adjustment Board to handle this case under Section 3-(i) of the Railway Labor Act. The 'dispute' that the Employes have presented to the Board is nothing other than a request for a new rule and one to be handled pursuant to Section 6 of the Railway Labor Act and the Carrier requests the Board to so award."

OPINION OF BOARD: In all essential features this dispute is identical with Docket CL-1595, Award 1636. What was said in disposing of that case is applicable to this. For the reasons there stated this claim must be denied.

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 employes involved in this dispute are respectively carrier and employes 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 has not violated the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 5th day of December, 1941.