

Award No. 2419

Docket No. TE-2011

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Howard A. Johnson, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers, Atchison, Topeka & Santa Fe Railway, that when the Carrier, without conference or agreement, removed from employees covered by the current Telegraphers' Agreement at Valley Mills, Pendleton, Blum, Rio Vista, Montgomery, Fostoria, Cresson, Tolar, Bluffdale, Brooksmith, Mercury, Rochelle, Blanket, Proctor and Hasse, the duties of loading and unloading mail, baggage, express, etc., 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, express, etc., 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 employees not covered by said Telegraphers' Agreement; that the work here involved be restored to station employees performing it previous to its improper transfer and that the agents at the stations mentioned above be compensated under the Call and Overtime rules of the Telegraphers' Agreement for each occasion on which these employees not covered by the Telegraphers' Agreement have performed the aforementioned work.

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

At the stations or locations listed in the Statement of Claim, outside of the assigned hours of the agents or when and where an agent is not on duty, train crews are required to unload from their trains and place in the depot mail, baggage, express, etc., consigned thereto. Likewise, mail, baggage, express, etc., due to leave said stations or locations outside of the agents' assigned hours is secured from the depot and placed in the train by said train crews. Train crews are provided with facilities for entering the station buildings. Outbound express and/or baggage shipments received at said stations, outside of the agents' assignments or when and where an agent is not on duty and not billed by them, are billed by train crews, express messengers, or train baggagemen.

POSITION OF EMPLOYEES: For the purpose of recording certain history that is pertinent hereto, the Organization goes back to disputes originating during the late twenties and early thirties between the Organization and the Carrier relative the latter's arbitrary method of taking certain agency positions out of the Telegraphers' Agreement and substituting therefor outside persons with a carrier-designation of "resident agents." Said dispute reached your Board in Docket TE-150. Award No. 255 dated May 7, 1936, disposed

CONCLUSION

In conclusion, the Carrier maintains that the instant claim should be dismissed or denied for the reasons herein presented and which are summed up as follows:

(1) The Schedule rules cited by the Organization do not support the claim.

(2) The handling complained of is in accord with the long and well established practice on the property.

(3) The handling has had the tacit approval of the Organization and its representatives.

(4) The restrictive handling now sought by the Organization has never been the subject of negotiation between the parties.

(5) The Third Division cannot extend or alter the provisions of the Agreement between the parties.

OPINION OF BOARD: This claim is governed by Docket TE-2010, Award No. 2418.

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 the Carrier violated the Agreement.

AWARD

Claim sustained subject to the limitations of Article V, Section (i) of the Agreement.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1943.

Dissent to
Award 2418, Docket TE-2010
Award 2419, Docket TE-2011
Award 2420, Docket TE-2013

What has been said in our dissent to Award 1273, Docket TE-1140 and affirmed in our dissents to Awards 1274, 1275 and 2155, applies with equal force to these Awards.

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