

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

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, Pacific Lines, that the Carrier has violated the Telegraphers' Agreement at Bisbee Junction, Arizona, by contracting with parties not covered by the Agreement to perform, outside the agent's assigned hours, work covered by the Agreement which is regularly assigned to and performed by the agent at this point during his assigned hours; and the further claim that, as this agent was the only employe covered by the Agreement whose duties embraced this work, he be paid for one call each day since March 11, 1935, account his duties contracted to outside parties.

EMPLOYES' STATEMENT OF FACTS: Prior to October 6th, 1931 and subsequent to October 3rd, 1941, the station force at Bisbee Junction consisted of an agent-telegrapher, second telegrapher-clerk and third telegrapher-clerk, the office being open twenty-four hours per day.

In October, 1931, the second and third telegrapher-clerk position were abolished, leaving the agent-telegrapher, with assigned hours 9:00 A.M. to 5:00 P.M.

Carrier then required and permitted the Railway Express Agency Inc.'s truck driver and Southern Pacific Company contract bus driver to open the station and build fires in the waiting room, these employes being furnished keys to the waiting room, agent's office and baggage and express rooms. These employes used the dispatching telephone circuit to ascertain if passenger trains were on time, informing the waiting passengers; also answered commercial telephone in the office, informing those inquiring if the passenger trains were on time. These employes took all mail, express and baggage from the station and loaded it on the trains. Incoming mail, baggage and express was unloaded from the train and placed in the baggage room, and in addition, if passengers desired their baggage, it was delivered by these employes. These employes signed for or receipted to the train baggagemen all baggage unloaded and obtained receipts from the train baggage or messengers for all baggage loaded on trains.

The Carrier paid the Railway Express Agency \$12.50 monthly for permitting its employe to perform a portion of this work. The Carrier also entered into a contract with the Brotherhood of Railroad Trainmen on May 12th, 1937, to pay trainmen for handling baggage, mail, express, company material and milk and cream to and from trains to the various station baggage rooms, including Bisbee Junction.

any individual selected by the carrier, and if such service is performed by individuals other than employees coming within the scope of the Agreement, such action does not constitute a violation of the Agreement.

With respect to service performed by members of the train crew as outlined above. This service is not work that belongs exclusively to employees covered by the Agreement, and can be required by the carrier of members of train crews at any station, whether it be an agency or non-agency station, and is in point of fact required at a number of agency stations other than Bisbee Junction and at train stop points where passengers entrain and detrain.

The foregoing conclusively establishes that the work which the petitioner is claiming as work belonging exclusively to the claimant so as to require that he be called to perform such work during hours other than his regular assigned hours is not, in point of fact, work that belongs exclusively to employees coming within the scope of the Agreement, and the performance of said work by individuals other than employees coming within the scope of the Agreement does not constitute a violation of the agreement. Furthermore, as previously pointed out, the rules relied upon by the petitioner do not in any way support the claim in this docket.

CONCLUSION: The carrier submits that the Division should dismiss the claim involved in this docket but in the event the Division does not so dismiss it, then having established that the claim is without basis it should be denied.

OPINION OF BOARD: The facts in this case are almost impossible of reconciliation. Likewise there is some evidence that an agreement was made to dispose of the case at one time. The record shows that the complaint disappeared with the reinstatement of 3rd trick telegrapher-clerk position on October 4, 1941. Under the facts and circumstances of this particular case the claim should 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 parties waived oral hearing thereon;

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 under the facts and circumstances of this particular case the claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 20th day of May, 1947.