

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY
COMPANY**

(Joseph B. Fleming and Aaron Colnon, Trustees.)

STATEMENT OF CLAIM: Claim of the General Committee of the Order of Railroad Telegraphers, Chicago, Rock Island and Pacific Railway, that Telegrapher C. E. Harding be paid one call for each of the following days; namely, December 10, 12, 14, 17, 19, 21, 24, 26, 28 and 31, 1940, and January 2, 4, 7, 9 and 11, 1941 because train orders taken by him while on duty at Sioux Falls, South Dakota, on each of the days enumerated which were to be delivered to trains at that point several hours after he went off duty were, on instructions of his superior, not delivered by him or any other employe in the office who was covered by the Telegraphers' Agreement, but were placed in a waybill box on the outside of the station building to be picked up by the train crews addressed.

EMPLOYES' STATEMENT OF FACTS: An agreement bearing date of January 1, 1928, is in effect between the parties to this dispute, copy of which has been furnished members of this Board.

At Sioux Falls, South Dakota, located on the extreme west end of the Cedar Rapids Division, Chicago, Rock Island and Pacific Railway, the carrier maintains a telegraph-ticket clerk position under the Telegraphers' Agreement with assigned hours 8:30 A.M. to 5:30 P.M., Sundays and holidays excluded, with an hour allowed for meals.

On December 10, 12, 14, 17, 19, 21, 24, 26, 28 and 31, 1940, and January 2, 4, 7, 9 and 11, 1941, before going off duty Telegraph-Ticket Clerk Harding at Sioux Falls received from the dispatcher train orders and clearance cards addressed to local east for delivery to this train due to leave Sioux Falls the following morning at 6:00 A.M., and was instructed to place the orders and clearance cards in a box on the outside of the station building to be picked up by the crew of the extra east, which instructions were observed by him.

POSITION OF EMPLOYES: The following articles of the prevailing Telegraphers' Agreement, which we invoke in this case, provides:

Scope

"The following rules and rates of pay will govern the employment of telegraphers, telephone operators (except switchboard operators), agents, agent-telegraphers, agent-telephoners, towermen, levermen, tower and train directors, block operators and staff men employed upon the line of these railways as shown in this schedule and are herein referred to as telegraphers."

OPINION OF BOARD: See Opinion in Docket TE-3549, Award 3611.

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 hearings 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 the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 17th day of July, 1947.

DISSENT TO AWARD 3611, DOCKET TE-3549
DISSENT TO AWARD 3612, DOCKET TE-3550
DISSENT TO AWARD 3613, DOCKET TE-3551
DISSENT TO AWARD 3614, DOCKET TE-3552

These four disputes are sustained on the grounds that the issues have been decided adversely to the carrier in Awards 2926, 2927, 2928, 2929, and 2930, involving these same parties. Dissents were filed to these awards as follows:

"Dissent filed to Award 1713 reflects our position then and now with respect to the provisions of Article 1-(b), in substance the same as Article XIII, there involved."

and are equally applicable to the awards here involved.

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