

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 & Pacific Railway, that Telegrapher C. E. Cotner, train order No. 347, was sent from El Reno in care of the crew of Extra 1954, and the yard engine at Enid, for delivery to the crew of the switch engine at Enid to avoid payment of overtime to Telegrapher Cotner.

EMPLOYEES' STATEMENT OF FACTS: There is an agreement bearing date of January 1, 1928, governing rules of working conditions and rates of pay in effect between the parties to this dispute, copies of which have been furnished to the members of this Board.

Enid, Oklahoma, is a station on the main line of the Oklahoma Division between Caldwell, Kansas, and El Reno, Oklahoma, and a terminal of the Ponca City Branch, Subdivision 45-A. Prior to February 11, 1939, there were employed three telegraph shifts providing twenty-four hours train order and telegraph service. Effective February 12, 1939, one telegraph shift was abolished and the hours of the two remaining shifts were changed, first shift 9:30 A.M. to 5:30 P.M.; second shift 9:15 P.M. to 5:15 A.M.; the office being closed 5:15 A.M. to 9:30 A.M., and 5:30 P.M. to 9:15 P.M. These assignments continued to and including June 12, 1939, at which time twenty-four hour continuous service was again restored and continued until July 17, 1939, when the third shift was again discontinued and the hours of the two remaining shifts were re-arranged as previously. Again on June 18, 1940, continuous service was restored and continued until July 14, 1940, when the service was reduced the third time and the hours of the remaining two shifts were made 9:15 A.M. to 5:15 P.M. and 8:00 P.M. to 4:00 A.M. These assignments continued in effect until June 10, 1941, when the twenty-four hour service was again re-established and has continued since that date.

During the periods when only two shifts were employed train orders addressed to trains at Enid, at a time no telegraph service was provided, were sent from other stations in care of the crews of one train with instructions to deliver the orders to the crews of another train to which they were addressed at Enid.

On March 2, 1941, train order number 347, together with accompanying clearance card, was transmitted by the dispatcher to the telegrapher at El Reno yard, an office where three consecutive shifts were employed, ad-

until the employees, because of awards issued by your Board, sought to secure a new interpretation of the rule so it would apply in a manner which they well knew was not intended when the rule was made in 1913."

which the employees on page 3 of their letter April 14, 1945 (Dockets TE-2932 to 2936), say "cannot be supported by facts nor any competent evidence."

We ask your Board to deny this claim, first on the basis that the employees cannot expect to be heard in a claim which they have failed to prosecute after withdrawal from your Board, in a period of four years, and, second, we ask that on the merits of the case your Board reconsider the decision made in your Awards 2926 to 2930, inclusive, taking cognizance of the very clear record in those cases which shows an undisputed recognized application of the rules in the Rock Island telegraphers' schedule for a period of more than forty years and find that the carrier's actions are in harmony with the rules.

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