

Award No. 5374

Docket No. TE-5238

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

J. Glenn Donaldson, Referee.

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

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OF TEXAS**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the St. Louis-Southwestern Railway Lines that:

(a) The Carrier violated the terms of the Agreement between the parties when, on October 20, 21, 22, 23, 25, 26, 27, 28 and 29, 1948, it required or permitted a train conductor, an employe not under the agreement, in charge of a pile driver work train, engine 502, engaged in driving piling at or near Ogemaw, Arkansas, to perform all of the communication work incident to the operation and movement of his work train, by telephone, direct from and to the train dispatcher.

(b) As a consequence of this violation the senior idle employe under the Agreement shall be compensated in accordance with the rules of said Agreement for each day on which the conductor of work train 502 performed the communications work aforesaid, which work is covered by the scope of said agreement and belongs to employes in whose behalf the Agreement was made.

EMPLOYEES' STATEMENT OF FACTS: There is an Agreement, hereinafter referred to as "the Agreement," or "the Telegraphers Agreement," bearing date of December 1, 1934, in effect between the parties to this dispute, copies of which are on file with your Board.

On October 20, 21, 22, 23, 25, 26, 27, 28 and 29, 1948, the Carrier had in operation at or near Ogemaw, Arkansas (formerly an agent-telegrapher station listed in the wage scale at page 20 of the Agreement), a pile driver work train Engine 502, in charge of a conductor, two brakemen, an engineer and fireman. On these dates the Carrier required the Conductor in charge of said work train, by use of the telephone at Ogemaw, to perform all of the Telephoner's (telegrapher's) work necessary in the operation and

OPINION OF BOARD: Since 1945 the parties have been afforded two opportunities by this Division to settle the question involved herein through collective bargaining (Awards 2972, 3716), but the controversy remains unresolved. Here we are confronted with a 284 page docket but again, as in the two previous instances, broad, comprehensive findings are sought in settlement of an important overall controversy brought about by the advent of the centralized control traffic system. Such determination is requested upon a record which is hardly representative of general operations upon the property. To consider this isolated case upon its peculiar facts undoubtedly would invite further submissions with a result that the Division rather than the parties through collective bargaining, ultimately would evolve rules to govern the parties in connection with C.T.C. operations. Such is not the intended function of this Board.

We must therefore remand this case, trusting that it can be disposed of by the parties along with the controversies previously remanded in the aforementioned Awards and involving the same subject.

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 question of whether or not there has been a violation of the Agreement is not determined.

AWARD

Claim is remanded until the question involved in Dockets Nos. TE-2993 (Award 2972) and TE-3681 (Award 3716) is resolved through negotiations by the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 28th day of June, 1951.