

Award No. 6677

Docket No. TE-6545

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad:

(1) That Carrier violated the terms of the Agreement between the parties when it required or permitted Signalman Landis, an employe not covered by the Agreement, to copy a line-up of train movements at Stella, Nebraska, on January 27, 1952 at 9:43 P. M. when the regularly assigned Agent-Telegrapher at that station was not on duty, but was available for call.

(2) Because of this violation, Carrier shall be required to pay P. M. Loney, Agent Telegrapher, Stella, Nebraska, the employe entitled to the work on the basis of a "call" as provided in Rule 10 (c).

EMPLOYEES' STATEMENT OF FACTS: There is in full force and effect an Agreement between the parties, dated September 1, 1949, covering wages, hours and working conditions of employes covered in the Scope Rule represented by The Order of Railroad Telegraphers, hereinafter called Employes' or Telegraphers and Missouri Pacific Railroad Company, hereinafter called Carrier, which Agreement as amended is incorporated herein as though set out herein word for word.

The parties hereto are a Carrier and Employes within the meaning of the Railway Labor Act. (45 U.S.C.A. Sec. 151, et seq.), and the Third Division of the National Railroad Adjustment Board has jurisdiction of the parties and the dispute involved herein.

At Stella, Nebraska, Carrier maintains a one-man station manned by an employe covered by the Telegraphers' Agreement, classified as Agent-Telegrapher whose regularly assigned hours are 8:30 A. M. to 5:30 P. M., with one hour for lunch.

On the 27th day of January, 1952, Signalman Landis, at Stella, an employe of Carrier not subject to Telegraphers' Agreement, at 9:43 P. M. copied a line-up of train movements from the train dispatcher located at Falls City, Nebraska. Falls City is 16.4 miles distant from Stella.

Telegrapher Ward because Mr. Shaw got his line-ups on the dispatchers' circuit direct from the dispatcher with no telegrapher participating in the handling.

As we have outlined above in our analysis of Board awards on the line-up issue, the cases covered by Awards 5407, 5408 and 5409, cited by the Employees, also involved line-ups being secured direct from the dispatcher.

It is the position of this Carrier that messages, including line-ups, whether of record or not, may be handled as the line-up in this case was handled without infringement upon the Telegraphers' Agreement because such work has never been contracted exclusively to that craft.

(Exhibits not reproduced)

OPINION OF BOARD: In connection with this docket we think it fair to make the following observations:

1. The Organization is more concerned about the establishment of a precedent than in the payment of the claim (for one call).
2. There is disagreement in the fact as to how the signalman involved actually received the "line ups" on which the claim is based.
3. The Board has recently adopted two awards 6607 and 6608 involving the same parties and a similar question wherein the recommendation was "The claim should therefore be remanded to the property for further handling and return if the parties are unable to agree."
4. The Carrier says "We would be willing even to give Claimant Loney the benefit of the doubt and pay the claim without prejudice, * * *."

In the light of the above our recommendation is that the Carrier pay this claim on the basis suggested in (4) above without prejudice to it or Awards 6607 and 6608.

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 we make no determination as to whether agreement was violated.

AWARD

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 18th day of June, 1954.