

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

A. Langley Coffey, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE TEXAS AND PACIFIC RAILWAY COMPANY

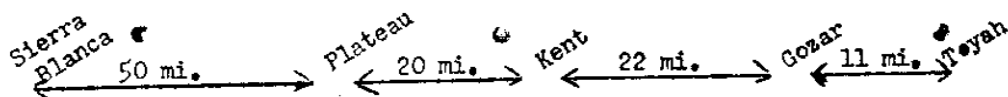
STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Texas and Pacific Railway, that:

(1) The Carrier violated Rules 1 (a) and 20 (d) and other rules of the Telegraphers' Agreement when on Sunday, October 19, 1952, at Plateau, Texas, it required or permitted a member or members of train crew Extra 1556 East, to copy and/or handle Train Order No. 46.

(2) The senior idle telegrapher, extra in preference, on the seniority district on the date of violation shall be compensated an amount equivalent to eight (8) hours' pay at the minimum pro rata rate prevailing on that district.

EMPLOYES' STATEMENT OF FACTS: There is in effect an agreement between the parties bearing date of May 15, 1950. A copy of the agreement is assumed to be on file with your Board and is made a part of this dispute.

On October 19, 1952, Extra 1556 East departed Sierra Blanca, Texas and received train order No. 45, either at Sierra Blanca or Van Horn (intermediate to Sierra Blanca and Gozar, Texas), instructing it to meet Extra 1579 West at Gozar. The latter train was called to leave Toyah (103 miles east of Sierra Blanca) at 2:45 P. M. The relation of the stations involved here with those of other stations in the territory, including mileage between such stations, are reflected in the following sketch:



When extra 1556 east arrived at Plateau (Oct. 19, 1952), it was stopped by being flagged down by the wife of the Section Foreman who informed a member of the train crew that the Dispatcher had requested someone on the crew to call the Dispatcher on the Dispatcher's telephone (either at the Section Foreman's house or at a phone located at the passing track switch), for a train order. The Trainman complied with the instructions and copied direct from, and repeated back to, the Dispatcher on the telephone, in lieu of the telegraph, train order No. 46, annulling the meet order (No. 45) with Extra

OPINION OF BOARD: This is another of those disputes concerning what protection, if any, the Employees have under the Scope Rule of the Agreement, against persons not covered being permitted or required to copy and/or handle train orders at blind sidings. Nothing that is said here can or will put at rest a long existing controversy, of far reaching effect, which dates back to the advent of the telephone as a means of communication. The Board's past efforts to do so, by interpretation, have brought about greater instability than stability, and all major differences will not be settled until the Carrier, or Carriers, and its, or their, employees acting by and through their duly chosen and designated representatives, agree on language that will resolve the doubt presently existing.

Just as it would be useless to try to cure all the world's ills and evils at one and the same time, it proves just as unprofitable to attempt to settle disputes of this character on other than a case by case basis, thereby confining a decision on each docket to the facts, argument, and rules at issue in the given dispute.

By the exercise of self-imposed restraint, the job here is made less difficult and we believe a true and correct decision will follow so far as the parties now before us are concerned, all without let or hindrance to the rights of others who are not parties to the pending dispute and whose rules and practices are not before us.

In view of the history of negotiations and the handling of the same or similar disputes on the property, backed by years of practical railroading and by long acquiescence therein by the Employees, all as shown in the record, we would now be guilty of having given only lip service in the past to the expression that this Board will not write, alter, amend or strike down rules, should we now sustain these claims.

On the record before us, the claims will 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 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 not violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 12th day of April, 1955.