

Award No. 10817

Docket No. TE-8007

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY**

— EASTERN LINES —

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway that:

1. The Carrier violated and continues to violate the agreement between the parties when and because it has declined and continues to decline to assign to employees covered by said agreement the work of transmitting and/or receiving communications of record now being handled by employees or persons not under the agreement by use of printing telegraph machines located in the yard offices at Shopton, Iowa; Argentine, Kansas; Emporia, Kansas, and Arkansas City, Kansas.

2. The work of transmitting and/or receiving such communications of record at the locations in (1) above shall be restored to the agreement and to the employees subject thereto;

3. If the Carrier elects to have such communications of record performed by the use of printing telegraph machines located in the yard offices at Shopton, Iowa; Argentine, Kansas; Emporia, Kansas, and Arkansas City, Kansas, it shall assign employees from the appropriate telegraphers' seniority roster to operate such printing telegraph machines, including auxiliary machines used in the reperforation of tape in a secondary operation pertaining to the transmission and reception of such communications of record;

4. For each and every eight hour shift, beginning August 3, 1929, that such communications work is performed by use of printing telegraph machines and/reperforators operated by employees not under the agreement, the senior available idle extra employee or employees on the appropriate telegraphers' seniority roster shall be compensated an amount equal to a day's pay at the printer clerk rate applicable to the particular location.

- (3) The handling complained of is not violative of any rule of the Telegraphers' Agreement, hence the Employees' claim is entirely without support under the provisions thereof relied upon by the Employees.
- (4) The Employees' long and unreasonable delay in (a) progressing their claim in the instant dispute to the Board, and (b) pressing for a final determination of the controversial issue which is the basis of the parties' disagreement requires a denial of the Employees claim.

The Carrier is uninformed as to the arguments the organization will advance in its ex parte submission and accordingly reserves the right to submit such additional facts, evidence and argument as it may conclude are required in reply to the organization's ex parte submission or any subsequent oral argument or briefs presented by The Order of Railroad Telegraphers in this dispute.

All that is herein contained has been both known and available to the employees and their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a dispute between The Order of Railroad Telegraphers and The Atchison, Topeka and Santa Fe Railway Company. Between 1929 and 1935 the Carrier installed printing telegraph machines and/or reperforators in the towns stated in claim. The Carrier assigned the operation of these machines to clerical Employees.

Petitioner contends that this violates the Agreement because this work belongs exclusively to telegraphers.

After careful examination of the record, we find that the facts and circumstances are substantially the same as in Award 10683. We find that Awards 8538, 9005, 9006, 9454 and 10776 by this Board are in point. We hold that Claimants have not established their exclusive right to perform the work in question either through practice on the property or under the terms of the Agreement.

For the foregoing reasons, we believe there was no violation of the Agreement.

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.

10817—72

566

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1962.