

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

William N. Christian, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

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

CASE NO. 1

1(a) Carrier violated the Telegraphers' Agreement when on Monday, the 4th day of November 1957, it caused, required or permitted Assistant Trainmaster J. K. Bailey, while at Cornelia, Georgia, to transmit a message of record to Chief Dispatcher J. F. Ayers in Greenville, South Carolina.

1(b) Carrier again violated the Telegraphers' Agreement when on Monday, the 4th of November 1957, it caused, required or permitted Maintenance of Way Foreman C. D. Campbell, while at Cornelia, Georgia, to transmit a message of record to telegraph operator in "V" Office, Greenville, South Carolina.

2(a) For the two violations set forth herein at Cornelia, Georgia, the Carrier shall compensate Telegrapher C. F. Harley, senior idle telegrapher, Charlotte Division Seniority District, idle and otherwise entitled, one day's pay (eight hours) at time and one-half rate of pay at \$2.27 per hour, total amount of part 2(a) of this claim is \$27.24. (The rate of \$2.27 per hour would be the present rate of clerk-telegrapher position at Cornelia, Georgia had the Carrier not abolished it.)

2(d) For the violation set forth herein, when the Carrier caused, required or permitted Chief Dispatcher J. F. Ayers to receive a transmission (message) of record, Carrier shall compensate Telegrapher J. C. Higgins one day's pay (eight hours) at time and one-half rate of pay at \$2.3550 per hour, total amount of part 2(b) of this claim is \$28.26. (The rate of \$2.3550 is the hourly rate of telegraphers in

"V" Office, Greenville, South Carolina, the employees whose work Mr. Ayers performed.)

CASE NO. 2

1(a) Carrier violated the Telegraphers' Agreement when on Tuesday, November 5, 1957, it caused, required or permitted Assistant Trainmaster J. K. Bailey, while at or near Cornelia, Georgia, to transmit a message of record via telephone circuit #502, to telegraph operator at Toccoa, Georgia.

(b) Carrier shall compensate Telegrapher R. F. Blackwelder, senior idle telegrapher, Charlotte Division Seniority District, idle or otherwise entitled, one day's pay (eight hours) at time and one-half rate of pay at \$2.27 per hour, total amount of this claim is \$27.24. (The rate of \$2.27 per hour would be the present rate of the clerk-telegrapher position at Cornelia, Georgia had the Carrier not abolished it.)

EMPLOYEES' STATEMENT OF FACTS: At 4:46 P.M., November 4, 1957, Assistant Trainmaster J. K. Bailey, while at Cornelia, Georgia, transmitted the following message of record by telephone circuit No. 502 direct with Chief Train Dispatcher J. F. Ayers at Greenville, South Carolina:

"Cornelia, Georgia
November 4, 1957

JFA
Greenville, South Carolina

From 7:01 A.M. November 5 to 2:31 P.M. speno ballast outfit will be working on Track No. 2 between Baldwin and Ayersville then from 2:31 P.M. to 5:01 P.M. the outfit will be working on Track No. 2 between Ayersville and Park. Trains must approach the speno outfit at reduced speed and pass it on hand signals from a member of the train crew.

/s/ J. K. Bailey"

This message was repeated back to Mr. Bailey by Mr. Ayers at Mr. Bailey's request at 4:47 P.M.

In compliance with the above message of record, the following day, November 5, 1957, the following train order was issued for delivery to trains affected. Order No. 5 read as follows:

"To C&E All South November 5, 1957
Greenville, South Carolina

From 7:01 seven naught one a.m. November 5th fifth until 2:31 two thirty one p.m. speno ballast outfit will be working on track No. 2 two between Baldwin and Ayersville then from 2:31 two thirty one p.m. to 5:01 five naught one p.m. will be working on track No. 2 two between Ayersville and Park. Trains must approach speno outfit

chief dispatcher. When the information was received in the Greenville communications office from the track foreman on November 4, it was then converted into a so-called message and transmitted by teletype to Charlotte and Washington. Employees of the telegraphers' class or craft operated the teletype machines used in sending and receiving the messages. It is assumed the information was telephoned by the clerk-telegrapher on duty at Toccoa to the communications office in Greenville. If not telephoned it was sent by Morse code.

While employees of the telegraphers' class or craft operate teletype machines installed in telegraph (communications) offices, no provision in the Telegraphers' Agreement confers upon them any contract right to transmit, receive or otherwise handle so-called messages of record.

When the assistant trainmaster and the maintenance of way foreman used the wayside telephones, in the wayside telephone booths, in talking to the chief dispatcher in Greenville and the telegraphers on duty in the communications offices in Toccoa and Greenville, they simply had ordinary telephone conversations in connection with the conduct of the Carrier's business. They were doing so in line with the practice from time immemorial; a practice recognized by the telegraphers and their representatives.

Thus, the conclusion is inescapable that there was no violation of the effective Telegraphers' Agreement on either date involved in the claims and demands, and that there is no basis for the monetary demands here made. By no stretch of one's imagination could any of the claimants have been utilized in performing any of the functions involved. They were all regularly assigned and were observing their assigned rest days far removed from Cornelia, Ga.

The Telegraphers' Agreement has to be applied and interpreted in a logical and sensible manner. The impossible is not contemplated nor required. Yet that is what the ORT here contends should have been done.

The claims and demands being absurdities and designed to do nothing more than "make work" for employees of the telegraphers' class or craft and being without any basis under the plain, unambiguous language of the agreement in evidence, the Board cannot do other than make a denial award.

All evidence here submitted in support of Carrier's position is known to employe representatives.

Carrier, not having seen the ORT's submission, reserves the right after doing so to reply thereto and present any other evidence necessary for the protection of its interests.

OPINION OF BOARD: This case is the same in all material respects as in Docket No. TE-1007, Award No. 11812. We adopt the opinion therein as determinative of the issues in this case.

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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of October 1963.