

Award No. 11989
Docket No. TE-10646

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard J. Seff, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
GULF, MOBILE AND OHIO RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Mobile and Ohio Railroad that:

Carrier violated the agreement between the parties when it required or permitted officials and/or employes not covered by the agreement to handle train orders as follows:

1. (a) On August 27, 1957 a conductor received, copied and delivered a train order at Gulfcrest, Alabama.
(b) Carrier shall compensate J. A. Pilkinton, senior idle telegrapher, in the amount of a day's pay.
2. (a) On November 21, 1957 a telephone lineman transported a train order and delivered it to a train at Kahlmus, Mississippi.
(b) Carrier shall compensate O. B. Adams, senior idle telegrapher, in the amount of a day's pay.
3. (a) On December 7, 1957 Trainmaster Selph transported a train order and delivered it to a train at Lauderdale, Mississippi.
(b) Carrier shall compensate O. B. Adams, senior idle telegrapher, in the amount of a day's pay.
4. (a) On December 10, 1957 a conductor received, copied and delivered a train order at Burksville, Illinois.
(b) Carrier shall compensate the senior idle telegrapher, extra in preference, on the seniority district, in the amount of a day's pay.
5. (a) On December 24, 1957 a conductor received, copied and delivered a train order at Baldwin, Illinois.

(b) Carrier shall compensate the senior idle telegrapher extra in preference, on the seniority district, in the amount of a day's pay.

6. (a) On December 25, 1957 a conductor received, copied and delivered a train order at Finger, Tennessee.

(b) Carrier shall compensate the senior idle telegrapher, extra in preference, on the seniority district, in the amount of a day's pay.

7. (a) On January 4, 1958 a conductor received, copied and delivered a train order at Rienzi, Mississippi.

(b) Carrier shall compensate the senior idle telegrapher, extra in preference, on the seniority district, in the amount of a day's pay.

8. (a) On January 8, 1958 Trainmaster W. L. Bush transported a train order and delivered to a train at Tibbee, Mississippi.

(b) Carrier shall compensate M. L. Pritchard, senior idle telegrapher, in the amount of a day's pay.

9. (a) On January 17, 1958 a conductor received, copied and delivered a train order at Ackerman, Mississippi at a time when the Agent-Telegrapher was off duty.

(b) Carrier shall compensate W. E. Conner, Agent-Telegrapher Ackerman, in the amount of a minimum call payment.

10. (a) On January 23, 1958 Division Superintendent St. John transported a train order and delivered it to a work extra at Bridge 60-42 near Elrod, Alabama.

(b) Carrier shall compensate the senior idle telegrapher, extra in preference, on the seniority district in the amount of a day's pay.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

Case No. 1

Gulfcresst, Alabama, is a station on the Southern Division of this Carrier's lines. Until a few years prior to the time cause for this claim arose there was a position of Agent-Telegrapher, under the agreement, at this station which handled all the agency and communication work. On August 27, 1957 at 11:25 P.M. Conductor Betts in charge of train Extra 1520 South handled (received, copied and delivered), by use of telephone, the following train order at Gulfcresst:

"Order No. 69

Aug. 27, 1957

To C&E Extra 1520 South at Gulfcresst

No. 28 Eng 736 meet Extra 1520 South at Mobile

Complete 11:25 P.M.

Betts Opr."

HOL

CATEGORY NO. 3

This category involves additional payment to a monthly rated Agent-Telegrapher on a regular work day. The question of paying a monthly rated Agent-Telegrapher additional compensation is presently pending before this Board in Docket TE-9039. That Docket involves a claim that Mr. Conner, the Agent-Telegrapher at Ackerman, Mississippi, be paid overtime payments on a regular work day. The Carrier's position in Docket TE-9039 as to the propriety of such payment is the same as its position here. To avoid repetition, the Carrier's Submissions in Docket TE-9039 are hereby, by reference, made a part of this submission.

As stated in the Statement of Facts, two similar prior claims were abandoned after being denied by the Superintendent. On October 19, 1956, a claim for additional payment to Mr. Conner was made because a conductor copied a train order at Ackerman after the Agent-Telegrapher went home. A similar claim was made on December 21, 1956. These two prior claims were appealed by the Local Chairman and abandoned after being denied by the Superintendent. This abandonment was over one year prior to the instant claim.

The failure to call Mr. Conner on January 17, 1958 was in accordance with the past practice at Ackerman as evidenced by similar action on two occasions approximately one year before. The practice was known to the parties as evidenced by claims being made and abandoned.

CONCLUSION

The claims referred to above are not supported by the Agreement and should be denied.

Carrier reserves the right to make an answer to any further submission of the Petitioners.

(Exhibits not reproduced.)

OPINION OF BOARD: Claims Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 10 involve the handling of train orders at locations where telegraphers covered by the Agreement are not employed. Awards 8207 and 11331 involve the same issues between the same parties and are dispositive of the claims here listed. Accordingly, these claims will be denied.

Claim No. 9 involves the same issues and contentions, and the same position as involved in Award 10106. That Award calls for the sustaining of Claim No. 9.

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 violated as to Claim No. 9.

AWARD

Claims Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 10 denied. Claim No. 9 sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December 1963.