

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Kieran P. O'Gallagher, Referee**

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**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:

1. Carrier violates Scope Rule (Rule 1) of the Telegraphers' Agreement when on November 28, 1956, it required or permitted Conductor J. C. Rader on Train No. 17, an employee not covered by the Telegraphers' Agreement, to handle (receive, copy and deliver) by telephone Train Order No. 41 at Tasso, Tennessee.

2. Carrier shall compensate D. M. Lyle, the nearest available telegrapher on the Knoxville Division (there were no extra telegraphers available on this date) November 28, 1956, for one day (eight hours) at the rate of \$1.98 per hour (minimum pro rata telegrapher rate on the Knoxville Division) for the aforesaid violation.

**EMPLOYEES' STATEMENT OF FACTS:** At Tasso, Tennessee, until about twenty-five years ago, the Carrier maintained a twenty-four hour train order office. The positions were covered by the Telegraphers' Agreement and manned by employees under the Agreement. The telegrapher assigned to Tasso performed all communication work, which included the handling of messages, orders and reports of record.

On Monday, November 28, 1956, the Dispatcher controlling the movement of trains on the section of railroad where Tasso, Tennessee is located had knowledge of the possible delay to Train No. 46, which was behind Train No. 56. Train No. 56 had a pulled drawhead at McDonald, Tennessee. The Train Dispatcher gave Train No. 17 a meet order with Train No. 46 at Tasso, Tennessee, but instructed Conductor Rader to call him when he arrived at Tasso.

Upon arrival of Train No. 17 at Tasso, Conductor Rader contacted the train dispatcher by the use of the telephone at Tasso. Thereupon the train dispatcher dictated a new meet Train Order No. 41, which was received and copied by Conductor Rader. Train Order No. 41 read as follows:

**CONCLUSION**

Carrier has proven beyond any doubt that there has **not** been any violation of the effective Telegraphers' Agreement, that the point at issue has heretofore been conceded by the ORT, and, further, that the ORT is seeking, by an award of Adjustment Board, a new rule or working condition.

The Board, having heretofore recognized that it is without authority under the law to grant new rules or modify existing rules, cannot do other than hold that the agreement has not been violated and make a denial award.

**OPINION OF BOARD:** This case is the same in all material respects as in Docket No. TE-9988, Award No. 12150. 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 29th day of January 1964.