

Award No. 12613
Docket No. TE-12236

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific (Pacific Lines) that:

CLAIM NO. 1

1. The Carrier violates the parties' Agreement at Hazen, Lovelock and Sparks, Nevada, when it permits or requires employes not covered by the Telegraphers' Agreement to transmit or receive messages of record over the telephone.

2. The Carrier shall, because of the violation set out above, compensate the following employes, or their successors, one special call on the dates shown:

(a) E. L. Persons, 2nd Telegrapher-Clerk, Fernley, July 15, 1959. J. K. Browning, 1st Telegrapher-Clerk, Lovelock, June 15, 1959.

(b) T. Sever, Relief Telegrapher-Clerk, Fernley, June 17, 1959. G. A. Taylor, Telegrapher-Clerk, Lovelock, June 17, 1959.

(c) M. K. Segar, 3rd Telegrapher-Clerk, Sparks, June 23, 1959. G. A. Taylor, 2nd Telegrapher-Clerk, Lovelock, June 23, 1959.

(d) M. K. Segar, 3rd Telegrapher-Clerk, Sparks, June 25, 1959. J. B. McKnight, 3rd Telegrapher-Clerk, Fernley, June 25, 1959.

(e) M. K. Segar, 3rd Telegrapher-Clerk, Sparks, June 29, 1959. J. B. McKnight, 3rd Telegrapher-Clerk, Fernley, June 29, 1959.

(f) M. K. Segar, 3rd Telegrapher-Clerk, Sparks, June 30, 1959. J. B. McKnight, 3rd Telegrapher-Clerk, Fernley, June 30, 1959.

(g) R. W. Brown, Relief Telegrapher-Clerk, Sparks, July 17, 1959. T. Sever, Relief Telegrapher-Clerk, Fernley, July 17, 1959.

3. The Carrier shall, in addition to the foregoing, for each date subsequent to those set out in Items (a) through (g) above, on which employes not covered by the parties' Agreement at Hazen, Lovelock and Sparks transmit or receive messages of record over the telephone in the manner herein described, compensate the Telegraphers listed in Items (a) through (g) and/or their successors in accordance with applicable rules.

CLAIM NO. 2

1. The Carrier violated the parties' Agreement at Hazen and Lovelock, Nevada, when it permitted or required employes not covered by the Telegraphers' Agreement to transmit or receive messages of record over the telephone.

2. The Carrier shall, because of the violation set forth above, compensate the following employes one special call on the date shown:

(a) E. L. Persons, 2nd Telegrapher-Clerk-PMO, Fernley, Nevada, May 11, 1959.

(b) M. K. Segar, 1st Telegrapher-Clerk Towerman, Lovelock, for one special call May 11, 1959.

CLAIM NO. 3

1. The Carrier violated the parties' Agreement at Hazen, Nevada and Ogden, Utah, when it permitted or required employes not covered by the Telegraphers' Agreement to transmit or receive messages of record over the telephone.

2. The Carrier shall, because of the violation set out above, compensate E. L. Persons, regularly assigned 2nd Telegrapher-Clerk, Fernley, Nevada, and J. N. Dockter, 2nd Telegrapher-Clerk-PMO, Ogden, Utah, one special call for July 17, 1959.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute, effective December 1, 1944, reprinted March 1, 1951, and as amended.

At pages 50 and 51 of said Agreement are listed the positions existing at Hazen, Lovelock, Sparks, Nevada; and Ogden Utah, on the effective date of said Agreement. The listings in the order named are:

"Location	Title of Position	Hourly Rate of Pay
Hazen	Agent-Telegrapher	\$1.77
Hazen	2nd Telegrapher-Clerk	1.6675
Hazen	3rd Telegrapher-Clerk	1.6675

foreman covering instruction from former as to crews to be called by latter did not involve the Telegraphers' Agreement.

The facts in this claim readily establish that the telephone conversations involved in this claim did not involve or contravene any provision of the current agreement. The conversations were purely an exchange of information pertinent to the normal functioning of the Maintenance of Way and Structures Department and the Timekeeping Bureau and in no manner involved the craft here making claim.

This claim is obviously invalid in its entirety; but even if it were valid, the penalty allowable would be at the straight time rate and not at the overtime rate claimed—see Awards 7094, 7222, 7239, 7242 and 7316, to cite a few.

CONCLUSION

Carrier has conclusively shown herein the claim is unwarranted and totally lacking in merit, and if not dismissed for lack of proper notice to other interested parties, Carrier asks that it be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: There are three claims.

In Claim No. 1 a Burrow Crane Operator telephoned the Roadmaster's office and advised the number of hours worked by Extra Gang No. 1 so that proper payroll records be kept. Also an Assistant Welding Supervisor from the Automotive and Work Equipment Department at Sparks, Nevada, telephoned from Hazen and advised the number of hours worked by the Automotive and Work Equipment Department employees.

These are not communications of record. They are not concerned with the movement of trains nor with the safety of persons and property. There is no evidence in the record to show that this type of message belongs exclusively to employees under the Agreement by history, custom and practice on the property.

In Claim No. 2 a Burrow Crane Operator telephoned a Roadmaster's Clerk and advised him that three cars of ribbon rail had been unloaded and were ready to be released for immediate movement.

Claim No. 3 involves telephone conversations concerning payroll records.

Neither the conversations involved in Claim No. 2 nor in Claim No. 3 are communications of record. They did not relate to the operation of trains nor with the safety of persons and property. Petitioner has produced no evidence to show that this type of communications is such work which by history, tradition, custom and practice belongs exclusively to employees covered by the Telegraphers' 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 Carrier did not violate the Agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of June 1964.