

Award No. 12614

Docket No. TE-12165

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 Phoenix, Arizona, when it permits or requires employes not covered by the Telegraphers' Agreement to transmit messages in the form of waybill numbers over the telephone to the Agent-Telegrapher at Gilbert, Arizona.

2. The Carrier shall, because of the violation set forth above,

(a) Compensate G. A. Gilliam, 2nd Wire Chief, Phoenix, or his successor, a special call for each date March 3, 19, 20, 23, April 2, 6, 13, May 1, 4, 22, 28, June 4, 8 and 12, 1959.

(b) Compensate N. E. Marquis, 3rd Wire Chief, Phoenix, (assigned as Relief Manager-Wire Chief, Phoenix) and Telegrapher-Clerk Tolleson, or his successor, for special calls each date March 3, 10, 11, 17, 18, April 1, 8, May 5, 19 and June 10, 1959.

3. The Carrier shall, in addition to the foregoing, for each date subsequent to those set out in Items (a) and (b) above, on which employes not covered by the parties' agreement at Phoenix, Arizona transmits messages of record over the telephone in the manner herein described, compensate Messrs. Gilliam and/or Marquis and/or their successors in accordance with the overtime and call rules of the Agreement.

CLAIM NO. 2

1. The Carrier violates the parties' Agreement at Weed and Redding, California, when it permits or requires employes not covered by the Telegraphers' Agreement to transmit and/or receive messages in the form of waybill numbers over the telephone.

2. The Carrier shall, because of the violation set forth above,

(a) Compensate C. W. Collins, Agent, Weed, California, or his successor, one special call each date May 8, 14, 15, 18, 20, 25, 26, 28 and 29, 1959.

(b) Compensate A. Peters, Relief Telegrapher-Clerk Towerman-Printer-Machine Operator, Redding and Red Bluff, Calif., or his successor, for one special call each date May 8, 14, 15, 1959.

(c) Compensate N. L. Kueny, 3rd Telegrapher-Clerk Towerman-Printer Machine Operator, Redding, California or her successor, for one special call each date May 18, 20, 25, 26 and 29, 1959.

3. The Carrier shall, in addition to the foregoing, for each date subsequent to those set out in Items (a) through (c) above, on which employes not covered by the parties' Agreement at Weed and Redding, California transmits and/or receives messages of record over the telephone in the manner herein described, compensate the available telegraphers at these two stations in accordance with the overtime and call rules of the Agreement.

EMPLOYES' 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.

CLAIM NO. 1

At page 69 of said Agreement are listed the positions existing at Phoenix, Arizona on the effective date of said Agreement. The listings are:

Location	Title of Position	Hourly Rate of Pay
Phoenix "FD"	1st Telegrapher-Clerk-PMO	\$1.69
Phoenix "FD"	2nd Telegrapher-Clerk-PMO	1.69
Phoenix "FD"	3rd Telegrapher-Clerk-PMO	1.69
Phoenix "MC"	Asst. Mechanician-Clerk-PMO	1.8225

As the above wage scale listing indicates, the Carrier maintains around-the-clock telegraph (telephone) service at Phoenix, Arizona for the purpose of handling all communications arising at or destined to this station.

On the dates set forth in the statement of claim, Claim No. 1, and on subsequent dates thereto, as a direct result of the inauguration of central billing and accounting practices at Phoenix, insofar as this dispute is concerned, the Carrier required or permitted clerical employes not covered by the Telegraphers' Agreement at Phoenix to transmit messages of record in the form of waybill numbers over the telephone to the agent-telegrapher at Gilbert, Arizona.

So as not to unduly burden the record of this case, we are attaching hereto, ORT Exhibit Nos. 1 thru 34—Claim No. 1, a representative number of such messages of record which present the "necessary proof of essential material

The facts in this claim readily establish that the use of the telephone by clerks at Phoenix, Weed and Redding for the exchange of information necessary in the performance of their regular duties did not involve or contravene any provision of the current Agreement. The action forming basis of this claim is analogous to that involved in claims progressed by Petitioner in Carrier's Exhibits A, B and C, and it must be obvious to the Division that if the issue was without merit at the time the claims there involved were abandoned by Petitioner in this dispute (Grand Officer Docket of March 15, 1954), there is no reason whatever to conclude that that issue has now acquired a valid basis.

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: Clerks, not covered by the Telegraphers' Agreement, telephoned Agents and other Clerks and gave them serial numbers of various types of bills of lading. The following are samples of such messages:

"Phoenix, Ariz.
March 3, 1959

J. T. Hall, Agt
Gilbert, Ariz.

Use PPFB Nos. 402547, 402548 & 402549 March 3, 1959.

J. L. Burton, Agt
Per Phone Sacco Clerk 9 A. M."

"Phoenix, Ariz.
May 5th, 1959

Agt Gilbert Ariz.

Use PPFB Nos. 405444, 405445, 405446, 405447 & 405448 also
Misc. Bills Nos. 30515, 30516, 30517.

J. L. Burton Per Phone
By Taylor Clerk 1 P. M."

"Redding, May 15, 1959
Clerk T. Page — Weed

Freight bill numbers 400361 and 400362.

H. A. McGhee by Clerk L. D. McCarty"

When the Agent-Telegrapher at Gilbert phoned Phoenix or the Clerk at Weed phoned Redding identifying the type of bill of lading for which a serial number was desired, the Clerk at Phoenix or at Redding would furnish such number.

On June 26, 1959, Petitioner's Local Chairman wrote to Carrier's Superintendent, in part, as follows:

"As it is a requisite in the Southern Pacific Company's system of accounting to inscribe on each freight bill, waybill, misc. charge bill, demurrage bill, prepaid freight bills, etc., for a permanent record, and also for permanent identification purposes, it cannot be denied that these messages which are telephoned from the Phoenix freight house containing the identification numbers are not messages of record."

In the course of handling the claims on the property, Carrier's Superintendent wrote to Petitioner's General Chairman on August 28, 1959 and on August 31, 1959, in part, as follows:

"This case was discussed in conference with you on August 26, 1959.

As you were advised, this is nothing more than advice passing between agency forces as to proper numbers to be assigned to freight bills when issued at Gilbert, this being an integral part of regional accounting arrangement."

On the basis of the record, we conclude that the claims are not messages of record. They do not involve the movement of trains or the safety of persons and property.

Since they are not messages of record, Petitioner is obliged to prove that this type of communication is work which belongs exclusively to employees covered by the Telegraphers' Agreement. This Petitioner has failed to do.

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.