

**Award No. 12622**

**Docket No. TE-13164**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**David Dolnick, Referee**

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**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:

1. The Carrier violated the agreement between the parties when it required or permitted an employe not covered thereunder to perform communication service of record by use of the telephone on March 24, 1960, at Niles, California.

2. The Carrier shall now be required to compensate Marie Perry, Telegrapher-Clerk, on the basis of a special call (3 hours' pay) for the work denied her account of this violation.

**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, 1959, and as otherwise amended.

On March 24, 1960, at or about 1:30 P. M., Carrier required or permitted a clerical employe not covered by the Telegraphers' Agreement to receive a message of record in the Agent's office at Niles, California.

The message of record received by the clerical employe is as follows:

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San Francisco, Calif. March 24, 1960.

Agent, SP Co.  
Niles, California.

K-3859-L. In SP-506266 carload gypsum from Plaster City 24th, going to U. S. Gypsum, Niles. Remove impact recorder, mail tape to P. M. Chaimov, San Francisco and Register to Agent, Oakland, California.

P. M. Chaimov 1:30 P. M.

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Attention is also called to Award 7826 on this property, where it was found that telephone call passing between train dispatcher and roundhouse 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 conversation 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 Carrier's Specialized Operations Department, 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 but 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:** The Head Impact Clerk, Specialized Operations Department, at San Francisco, California, telephoned the Agent's office at Niles, California, and gave the following information to the Car Clerk to be delivered to the Agent.

"K-3859-L. In SP-506266 carload gypsum from Plaster City 24th, going to U.S. Gypsum, Niles. Remove impact recorder, mail tape to P. M. Chaimov, San Francisco and Register to Agent, Oakland, California."

Impact registers are installed in freight cars to record on tape the speed at which the car is coupled to another or motive power unit. The Specialized Operations Department has the sole responsibility to determine where they are placed in the cars, arrange for the return of the impact tape when the trip is completed, analyze the data on the tape and determines if the car was roughly handled.

The telephone conversation is not a communication of record. It was not a message which diverted the movement of the train, nor did it deal with the safety of passengers and property. The installation and the removal of the impact recorder is not a train order.

Furthermore, when the Agent at Niles returned to his office and saw the message, he telephoned the Head Impact Clerk at San Francisco and advised him that he could not accept a telephone message. The information was confirmed by mailgram. The Agent apparently acted on basis of the information in the mailgram and not on the telephone conversation between the two clerks.

**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**

Claim 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.