

Award No. 13492

Docket No. TE-12485

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**SOUTHERN PACIFIC LINES IN TEXAS AND LOUISIANA
(Texas and New Orleans Railroad Company)**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific Lines in Texas and Louisiana (Texas and New Orleans Railroad Company) that:

1. Carrier violated the Agreement between the parties when it required or permitted employees not covered by the Agreement to handle train orders as follows:

December 27, 1959, Order No. 226, at Dunagan, Texas
January 29, 1960, Order No. 233, at Crosby, Texas
February 5, 1960, Order No. 240, at Crosby, Texas
February 8, 1960, Order No. 494, at Crosby, Texas
February 15, 1960, Order No. 231, at Bobsher, Texas
April 15, 1960, Order No. 240, at Crosby, Texas

2. Carrier shall be required to compensate an employee under the Telegrapher's Agreement in the amount of a day's pay on each date a violation occurred, as follows:

December 27, 1959, R. B. Brasher
January 29, 1960, L. Huntington
February 5, 1960, Irene Johnson
February 8, 1960, A. D. Dunlap
February 15, 1960, J. D. Bormholdt
April 15, 1960, A. D. Dunlap

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective December 1, 1946, and supplementary agreements thereto, are available to your Board and by this reference are made a part hereof.

On Sunday, December 27, 1959, Conductor Stewart, in charge of Train No. 159, handled (received, copied and delivered) the following train order at Dunagan, Texas:

"Train Order No. 226 Dec. 27, 1959

To C&E No. 159

met this situation by issuing a train order on the telephone to the conductor of the freight train. In doing so, he followed the practice of some fifty years. We are unable to find that any other order has been issued under any conditions at Dunagan since we have been operating over the A&NR Railroad.

The Carrier respectfully points out that Order No. 233 of January 29, 1960, Order No. 240 of February 5, 1960, Order No. 494 of February 8, 1960, and Order No. 240 of April 15, 1960, were all issued at Crosby. Crosby is a small station and was closed on account of disappearance of business and it was handled in the usual way. Application was made to the Railroad Commission of Texas, and permission was granted to close the station, and at no time did we issue many train orders at Crosby. There has been no sustained use of that station for copying train orders and it was a mere coincidence that four orders were issued in three months time.

Order No. 231 issued on February 15, 1960, was an order to switcher en route Beaumont to Orange. The switcher was engaged in doing some work on a new track and it ran out of time and train order was issued to the conductor to move the train to Orange.

All of the conditions present in Award 7953 are present in these cases and the Carrier respectfully requests that the claim be in all things denied.

(Exhibits not reproduced).

OPINION OF BOARD: The issues, parties and Agreement involved in this Claim are the same as in Award No. 13491. For the reasons stated in that Award we will deny this Claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 27th day of April 1965.