

Award No. 13518

Docket No. TE-12761

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Kieran P. O'Gallagher, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

GULF, COLORADO & SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Colorado and Santa Fe Railway, that:

1. The Carrier violated the Agreement between the parties when on February 10, 1960, it removed the work of operating switches and signals governing the movement of trains heading in and out main line tracks and other tracks at Temple, Texas, from employees covered by the Telegraphers' Agreement and delegated the performance of this work to employees not within its coverage;
2. The Carrier shall be required to restore said work to the scope of the Telegraphers' Agreement to be performed by employees covered thereby; and
3. Carrier shall now be required to compensate W. L. McLendon for eight hours' pay at the rate of the first shift position at Temple Tower each work day, in addition to pay at the time and one-half rate for work performed outside the assigned hours of the first shift position at Temple Tower.
4. Carrier shall now be required to compensate O. D. Boyd for eight hours' pay at the rate of the second shift position at Temple Tower each work day, in addition to pay at the time and one-half rate for work performed outside the assigned hours of the second shift position at Temple Tower.
5. Carrier shall now be required to compensate C. D. Boyd for eight hours' pay at the rate of the third shift position at Temple Tower each work day, in addition to pay at the time and one-half rate for work performed outside the assigned hours of the third shift position at Temple Tower.
6. Carrier shall now be required to compensate E. A. Thomas for eight hours' pay at the rate of Relief Position No. 7 at Temple Tower each work day, in addition to pay at the time and one-half rate for work performed outside the assigned hours of Relief Position No. 7 at Temple Tower.

the Temple Tower and accordingly is the only work day that can possibly be involved in the portion of the claim in behalf of Claimant E. A. Thomas. As indicated in the last sentence of the paragraph ending on page 8 hereof, the only change involved in Relief Position No. 7 was to substitute the Thursday rest day of Telegrapher-Clerk Position No. 263 at Killeen, Texas, with assigned hours from 11:30 P.M. to 7:30 A.M., for the Thursday rest day of abolished Towerman Position No. 147 which had been assigned to work from 11:45 P.M. to 7:45 A.M. Since the rate of pay for Position No. 263 at Killeen was \$2.325 per hour as compared with the hourly rate of \$2.315 for Position No. 147 at the Temple Tower, it is obvious that Claimant E. A. Thomas did not suffer any loss in compensation, as his earnings were increased.

In conclusion, the respondent carrier respectfully reasserts that the claim of the employees in the instant dispute is entirely without merit or support under the Telegraphers' Agreement and should, for the reasons stated herein, be either dismissed, remanded, or denied in its entirety.

OPINION OF BOARD: The basic issue presented by this dispute is substantially indistinguishable from those disposed of in Awards 8143 and 9209, where these same parties and the same agreement were involved.

In the light of the decisions in those cases, this claim will accordingly be remanded to the parties.

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 no jurisdiction over the dispute involved herein.

AWARD

Case remanded in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April 1965.