

Award No. 13744
Docket No. TE-13743

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

SOUTHERN PACIFIC COMPANY
(Texas and Louisiana Lines)

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), that:

1. The Carrier violated the terms of an Agreement between the parties hereto when it required or permitted employes not covered by said Agreement to transmit messages of record over the telephone at the station locations and on the dates hereinafter set forth:

Claim No. 1 - Duson, La. - Feb. 26, 27, March 1, 2, 1962.

Claim No. 2 - Berclair, Texas - March 18, 1962.

Claim No. 3 - Berclair, Texas - March 20, 1962.

Claim No. 4 - Berclair, Texas - March 22, 1962.

Claim No. 5 - Berclair, Texas - March 26, 1962.

2. The Carrier shall, because of the violations set out in Item No. 1 hereof, compensate the following employes as hereinafter set forth:

Claim No. 1 - Raymond Hebert, a day's pay for Feb. 26, 27, March 1, 2, 1962.

Claim No. 2 - J. M. Hicks, a day's pay at the time and one-half rate.

Claim No. 3 - S. H. Troutman, a day's pay at the time and one-half rate.

Claim No. 4 - C. W. Harvey, a day's pay at the time and one-half rate.

Claim No. 5 - E. V. Novosad, a day's pay at the time and one-half rate.

NOTE: Claims 2 through 5 are for employes idle on their respective rest days.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an agreement by and between the parties to this dispute effective December 1, 1946, and as otherwise amended.

The five (5) claims here presented to your Honorable Board for its consideration were, as the record shows, handled separately on the property. However, since all of the claims present common aspects, viz., the question at issue, the facts, and rules involved being the same or essentially so, the Employes, in the interest of reducing these submissions and to avoid repetitious handling to the extent possible, incorporated all of these disputes into this one appeal.

CLAIM NO. 1

Duson, Louisiana, was until January 5, 1962, a non-telegraph agency. The date of its reclassification from a telegraph (telephone) agency to a non-telegraph agency is not in the record.

On February 26, 27, March 1 and 2, 1962, Extra Gang Foreman A. B. Matte, an employe outside the scope of the parties' agreement at Duson, transmitted the following messages of record over the telephone to the agent-telegrapher at Crowley:

"From Duson by phone
Crowley, La., Feb. 26, 1962

MHR Houston
EPE & ACW Lafayette

Effective 4:30 P. M. Feb 26th have all trains not exceed 30 MPH
between MP 154-75 and MP 157

A. B. MATTE"

"From Duson by phone
Crowley, La., Feb. 26, 1962

MHR Houston
EPE & ACW Lafayette

Please issue form Y order between Scott and Rayne 8:30 A. M. to 4:30 P. M. Feb 27th, 1962. Red conditional stop signs will be placed at MP 156 for Eastward trains and at MP 154-50 for Westward trains.

A. B. MATTE"

"Duson by fone Crowley, La.
2/27/62

MHR Houston Tex

Effective 4:30 P. M. until 8:30 A. M. have all trains not exceed 30 MPH between MP 154-75 and MP 157 until cancelled

A. B. MATTE"

"The Scope Rule does not define work covered by the Agreement, but lists the classes of workers included. But of necessity the subject matter of the contract is work; and to define such, recourse has been had to the kind and character of work usually and customarily performed by the class of employee included in the Scope Rule. Telephone operators (except switchboard operators) and agent-telephoners are included. But this does not mean all work of transmitting messages by telephone is included in the Scope Rule (Awards 603, 652, 4280).

The telephone is a convenient and ready way to communicate; its use requires no training. Consequently, when this Board has been called upon to interpret the Scope Rule of the Telegraphers, such as is here involved, with respect to the work of transmitting communications by telephone, it has recognized that every use of the telephone was not intended as Telegraphers' work and, in general, has confined the application of the rule to the work of transmitting or receiving messages, orders or reports of record by telephone in lieu of the telegraph. See Awards 4516, 4280 and 1983."

Award No. 9961 states in the Opinion of Board as follows:

"That telegraphers do not have the exclusive right to use telephones has been made clear by Awards 5181, 5660, 7968, 9572, and numerous others, and no provision in the applicable Agreement calls for an exception to that general principle."

The Carrier respectfully requests a denial of this case since it violates no part of the current Telegraphers' Agreement.

OPINION OF BOARD: The parties, issue and Agreement are the same as in Award No. 13742. For the reasons stated in that Award we will deny the 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 the 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 23rd day of July 1965.