

Award No. 14484

Docket No. TE-14084

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION**

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**
(Formerly The Order of Railroad Telegraphers)**GULF, MOBILE AND OHIO RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Mobile and Ohio Railroad, that:

1. Carrier violated the agreement between the parties when on June 19, 1962 it required or permitted the Division Freight Agent at Columbus, Mississippi to transmit and a Yard Clerk at Artesia, Mississippi to receive a message.

2. Carrier shall compensate the senior idle telegrapher, W. D. Long, in the amount of a day's pay (8 hours) and Telegrapher H. E. Chandler, at Artesia, in the amount of a call payment on June 19, 1962.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective June 1, 1953, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Columbus, Mississippi and Artesia, Mississippi, are stations on the Southern Division of this Carriers' lines. On the effective date of the current agreement there was one position under the Agreement at Columbus, Agent-Operator; at Artesia, three seven-day positions furnishing continuous service around the clock. The Agent-Operator position at Columbus was discontinued in November, 1955.

At 10:37 A. M. on June 19, 1962, Mr. J. B. Flock, Division Freight Agent (an appointive position not under any agreement), at Columbus, Mississippi used the telephone to transmit the following message to a Yard Clerk, an employe not covered by the Telegraphers' Agreement, at Artesia, Mississippi:

"Columbus, Miss. 6/19/62
G.D.F. — Artesia.

From St. Louis June 15th car MILW 34102 divert it to Midland
Container Co. Vanwinkle, Miss. via Jackson, Miss. IC.RR.

J. B. Flock"

The above message is of the type generally referred to as a diversion message i.e. one which changes the waybilling particularly the consignee, destination or route — sometimes all of these items.

Claim was filed and handled in the usual manner up to and including the highest designated officer of the Carrier and has been declined. Correspondence reflecting this handling on the property is attached here as ORT Exhibits 1 through 6.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: This claim alleges a violation of the Telegraphers' Agreement because the Division Freight Agent at Columbus, Mississippi, talked on the telephone to a clerk at Artesia, Mississippi, on June 19, 1962 and gave the clerk information to divert a car. The information was as follows — "From St. Louis June 15th car MILW 34102 divert it to Midland Container Co. Vanwinkle, Miss. via Jackson, Miss. IC.RR". (Artesia, Mississippi is fourteen (14) miles west of Columbus, Mississippi.) For this alleged violation, the claim asks that Telegrapher W. D. Long at Meridian, Mississippi (eighty-four miles south of Artesia) be paid eight hours pay at the rate applicable at Meridian. In addition, the claim asks that Telegrapher H. E. Chandler at Artesia be paid two hours at time and one-half rates in addition to pay for services rendered.

The claim is based on the premise that the scope rule of the telegraphers' agreement gives to employees covered by that agreement the exclusive right to use the telephone.

The Agreement between the parties is one effective June 1, 1953. Copy of this Agreement is on file with this Board and by reference made a part hereof.

OPINION OF BOARD: The dispute herein involves the same parties and the same basic contentions by the parties as involved in Award 14482 and for the reasons stated in that award the claim herein is denied.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of June 1966.

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