



Award No. 14534

Docket No. TE-14933

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bernard E. Perelson, Referee

PARTIES TO DISPUTE:

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

ATLANTIC COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atlantic Coast Line Railroad, that:

1. Carrier violated the agreement when on the 30th day of March, 1963, it required and permitted Signal Maintainer N. B. Ford, an employe not covered by the Telegraphers' Agreement, to perform the work of transmitting a communication by telephone at Moncks Corner, South Carolina, during the hours the agent-telegrapher was not on duty.

2. Carrier shall compensate F. L. Baggett, Agent-Telegrapher, Moncks Corner, South Carolina, for one call, two hours, at time and one-half, pro rata rate, for the violation set forth above.

3. Carrier violated the agreement when on the 4th day of April, 1963, it required and permitted Section Foreman B. A. Lashley, an employe not covered by the Telegraphers' Agreement, to perform the work of transmitting a communication by telephone at Roanoke, Alabama, after the agent-telegrapher was off duty.

4. Carrier shall compensate B. O. Barnes, Agent-Telegrapher, Roanoke, Alabama, for one call, two hours, at time and one-half, pro rata rate, for the violation set forth above.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective November 1, 1939, as amended and supplemented, is available to your board and by this reference is made part hereof.

There are two separate claims involved in this dispute. Both involve the issue of whether the Claimants had the contractual right to perform the work herein involved. The compensatory claims are only collateral issues in that the Carrier does not dispute the correctness of these claims once the substantive claims of violations are resolved. The facts of each are as follows:

concessions which have already been granted to them. Thus, if employes of the telegraphers' class or craft possessed the monopolistic rights in 1946, which they now allege they have, why did they through their representatives, demand such rights? The answer is obvious. No such rights have been conferred upon them by agreement or other wise. They, therefore sought a concession which they recognized that they did not have. They cannot cite any agreement provision granting them such rights. Certainly, the Scope Rule, upon which they here rely, does not confer such rights upon them.

By making the ridiculous contention that simply because Section Foremen's and other employes' use of the telephone requesting the Chief Dispatcher to issue Reduce Speed and Conditional Stop Sign orders constituted the transmitting of messages of record, The Order of Railroad Telegraphers attempts to create the impression that for Section Foremen, Signal Maintainers, and other employes to use telephones in talking to telegraphers with respect to such matters is something new. This simply isn't so. Throughout all the years that telephones have been in use, Section Foremen and other employes have used them in communicating with Chief Dispatchers, Train Dispatchers and Telegraphers with respect to placement of Reduce Speed orders. Conditional Stop Sign orders, Approach Prepared to Stop Signs, and Conditional Stop Signs came into use effective November 16, 1957, and since that time Section Foremen and roadway forces have used the telephones in requesting their placement. Their use results in an efficient, safe and economical method of operation. Section Foremen and other employes were using telephones to request the placement of Conditional Stop Sign orders for more than six years before the claims here involved were presented. The Order of Railroad Telegraphers has long since conceded the point here involved, not only by the proposal in 1946, but by its action subsequent thereto.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim involved two alleged violations on two specific dates, as follows:

1. On March 30, 1963, when it required and permitted Signal Maintainer N. B. Ford an employe not covered by the Telegraphers' Agreement to perform the work of transmitting a communication by telephone at Moncks Corner, South Carolina, during the hours the agent-telegrapher was not on duty.

2. On April 4, 1963, when it required and permitted Section Foreman B. A. Lashley, an employe not covered by the Telegraphers' Agreement, to perform the work of transmitting a communication by telephone at Roanoke, Alabama, after the agent-telegrapher was off duty.

This Docket was certified for simultaneous handling with Docket No. TE-14184, Award No. 14533 the issue involved in both Dockets being the same. Our opinion in Award 14533, is hereby made the opinion of the Board in this Docket with the same force and effect as if fully set forth herein.

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 Employes involved in this dispute are respectively Carrier and Employes 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 of the parties was not violated.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1966.