

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David H. Brown, Referee

PARTIES TO DISPUTE:

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

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri-Kansas-Texas Railroad, that:

1. Carrier violated Rule 1 of the parties' Agreement when it failed and refused to pay Relief Agent-Telegrapher J. H. Forbes, Granger, Texas, a call account Conductor on Extra 119 North at 12:31 P. M., September 30, 1963, handled train order No. 90 at a time when Claimant was off duty but available for call.

2. Carrier shall, because of the violation set out in paragraph one hereof, pay J. H. Forbes a "Call" as provided by Rule 1 (e).

EMPLOYEES' STATEMENT OF FACTS: At 12:31 P. M., Monday, September 30, 1963, at Granger, Texas, Conductor B. W. Foster of train Extra 119 North handled (received, copied and delivered) train order No. 90. The order was addressed to the conductor and engineer of that train at Granger and read as follows:

"No. 1 Engine 55C wait at Berger until 2:30 P. M. Cabel 3:20 P. M. for Extra 119 North. No. 41 wait at Berger until 6:01 P. M."

The order was signed by "JHC," made complete at 12:31 P. M., and signed "Foster" as the Operator.

Claimant on the date of claim held the position of the regularly assigned rest-day relief telegrapher at Granger and Temple, Texas, on the following basis:

Thursday - Temple, Texas	—	12:01 A. M. to 8:01 A. M.
Friday - Temple, Texas	—	12:01 A. M. to 8:01 A. M.
Saturday - Temple, Texas	—	9:30 A. M. to 5:30 P. M.
Sunday - Granger, Texas	—	8:00 P. M. to 5:00 A. M.
Monday - Granger, Texas	—	8:00 P. M. to 5:00 A. M.
Tuesday and Wednesday - Rest Days.		

We have advised you formerly that we had referred this claim to St. Louis to be processed to the Third Division, and unless you want to discuss this across the table and try to settle it, we don't believe there can be anything accomplished by this letter-writing contest.

Yours very truly,

/s/ W. C. Thompson

WCT:hb

bc: G. E. Leighty
P. W. Hamilton"

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Claimant J. H. Forbes is employed as extra telegrapher on the seniority district involved, and at the time of this claim was employed as relief telegrapher at Temple-Granger, Texas, relieving the regular assigned relief telegrapher who was laying off account of illness. This relief position is assigned to work as follows:

Thursday, Telegrapher, Temple	12:01 A. M. to 8:01 A. M.
Friday, Telegrapher, Temple	12:01 A. M. to 8:01 A. M.
Saturday, Agent-telegrapher, Temple	9:30 A. M. to 5:30 P. M.
Sunday, Agent-telegrapher, Granger	8:00 P. M. to 5:00 A. M.
Monday, Agent-telegrapher, Granger	8:00 P. M. to 5:00 A. M.

Claimant resides and was in Temple when train order service involved was required and performed at Granger which is 28.1 rail miles and 29 highway miles from Temple. The regular assigned Agent-telegrapher at Granger resides in Austin which is 47.4 rail miles from Granger and was on his rest days when the service involved was required and performed at Granger.

At 12:31 P. M., Monday, September 30, 1963, the head brakeman on Extra 119 North at Granger inquired of train dispatcher on telephone about passenger train No. 1 and was given train order with time for Extra 119 North to go to Cobel, 27 rail miles north of Granger, for No. 1.

Claim for call was made by Telegrapher J. H. Forbes account Brakeman or Conductor Foster copying train order No. 90 at Granger at 12:31 P. M., September 30, 1963. The Carrier declined the claim as indicated in copy of correspondence attached, Carrier's Exhibit A.

No conference has been held by the parties to consider, and, if possible, decide this alleged unadjusted dispute in accordance with the clear, specific and mandatory requirements of Section 2, Second, of the amended Railway Labor Act, and Circular No. 1 of the National Railroad Adjustment Board, dated October 10, 1934.

(Exhibits not reproduced.)

OPINION OF BOARD: No conference was held on the property in connection with this dispute. Under the circumstances we shall follow the weight of authority of such recent decisions as Award 14386, 14370 and 13563 and sustain Carrier's contention the matter is not properly before this Board.

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 does not have jurisdiction over the dispute involved herein.

AWARD

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 15th day of July 1966.