

Award No. 14692
Docket No. TE-11379

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

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

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Coast Lines)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Atchison, Topeka & Santa Fe Railway, that:

1. The Carrier violated and continues to violate the agreement between the parties when and because it refused and continues to refuse to assign to employees covered by said agreement the duties of operating printing telegraph machines used for transmitting messages, reports and similar communication located in Division Freight Agent's offices at Stockton and Oakland, California;

2. The Carrier shall be required to assign all such duties to employees covered by the Telegraphers' Agreement; and

3. For each and every eight hours shift beginning April 8, 1958 that communications work is performed by means of printing telegraph machines located in the Division Freight Agent's offices at Stockton and Oakland, California operated by employees not covered by the Telegraphers' Agreement the Carrier shall be required to compensate the senior idle extra telegraph service employee or employees on the Telegraphers' seniority roster an amount equivalent to a day's pay at the printer-clerk rate applicable to that division; and if there be no idle extra telegraph service employees, the Carrier shall compensate the senior telegraph service employee or employees, idle on rest days in an amount equivalent to a day's pay at the time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: Agreements between the parties, bearing effective dates of June 1, 1951 and August 21, 1954 are in evidence.

This dispute deals with the installation of printing telegraph machines in two separate offices on the same seniority district; namely Stockton and Oakland, California and subsequent transfer of work previously performed by employees under the Telegraphers' Agreement to employees not covered thereby. The facts in connection with each of the respective locations are as follows:

claims of a similar nature, as well as the other past actions of the representatives of the Order of Railroad Telegraphers, is conclusive evidence of their recognition that employees subject to the Telegraphers' Agreement have never possessed an exclusive right to the operation of teletype machines in other than telegraph offices such as those at Stockton and Oakland.

I also desire to point out that, even if your appeal claim had merit under the agreement rules, and I do not agree that it does, your claim for penalties is excessive for the reason that employees other than those subject to the Telegraphers' Agreement are not devoting eight (8) hours of their time to the complained-of work, and the Third Division has repeatedly held that employees who have rights to work which is performed by someone not entitled to perform it are only entitled to be compensated for the time actually devoted to the work.

Yours truly,

/s/ L. D. Comer"

(Exhibits not reproduced.)

OPINION OF BOARD: The issue involved in this dispute has been before the Board in numerous cases where these same parties were involved: Awards 6604, 8140, 8538, 9005, 9006, 9454, 10516, 10683, 10776, 10817, 10857, 10858, 10949. In none of these decisions was the position of the Employees sustained.

The present case is not substantially different from a number of those referred to. We believe the question at issue has been conclusively decided in favor of the Carrier. This claim, therefore, must be 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 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 29th day of July 1966.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.