

Award No. 14773
Docket No. TE-12971

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(FORMERLY THE ORDER OF RAILROAD TELEGRAPHERS)**

PANHANDLE AND SANTA FE RAILWAY COMPANY

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

1. The Carrier violated the terms of the Agreement between the parties when, without negotiation or agreement, on or about April 19, 1960, it unilaterally declared abolished the position of second shift telegrapher-clerk at Levelland, Texas, and assigned the work of this position to the agent-telegrapher whose hours were changed to cover two hours of the abolished telegrapher-clerk's assignment.

2. Carrier further violated the Agreement (Article V of the August 21, 1954 Agreement) when the Superintendent failed to notify the representative filing and appealing the claim of his reasons for disallowing the claim.

3. Carrier shall now be required to compensate Telegrapher-Clerk E. L. Boyd for eight hours' pay at the rate of the second shift telegrapher-clerk position at Levelland each work day, in addition to pay at the time and one-half rate for work performed outside the assigned hours of the former second shift telegrapher-clerk position at Levelland, plus actual expenses incurred on each day he works at a station other than Levelland.

EMPLOYEES' STATEMENT OF FACTS: Agreement between the parties, bearing effective date of June 1, 1951, is in evidence.

This dispute concerns the Carrier's unilateral abolishment of the 2:00 P.M. to 10:00 P.M. telegrapher-clerk position, without conference or negotiation, at Levelland, Texas, and the assignment of the work of this position to the Agent-telegrapher.

Prior to April 19, 1960, the station force at Levelland, Texas, was:

allowed as presented. Award 9492.

The Superintendent's statements that the claim 'was not supported by agreement rules' is a conclusion that must be reached by any Carrier representative before disallowing a claim, however, some reason or reasons for arriving at such a conclusion should be given to the Employee representative.

It is noted that District Chairman Bradley addressed three letters to Superintendent May in a futile attempt to secure reasons for denial of the claim.

This is to advise you that your decision is not satisfactory and will be appropriately appealed.

Yours truly,

/s/ D. B. Bobo
General Chairman"

OPINION OF BOARD: This case involves the same parties and Agreement as in Award No. 14772; also, the same fatal procedural deficiency. For the reasons stated in Award No. 14772 we will dismiss 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

In failing to particularize the Rules allegedly violated, when it had the burden of doing so, Petitioner failed to perfect its Claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of September, 1966.

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