



Award No. 15744

Docket No. TE-15471

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Thomas J. Kenan, Referee

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY
(Gulf District)

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees' Union (formerly The Order of Railroad Telegraphers) on the Missouri Pacific Railroad (Gulf District), that:

1. Carrier violation of the Telegraphers' Agreement, Scope Rule 1, in allowing or requiring MofW employes to assume duties of telegraphers at various locations in receiving PX lineups, while regular telegraphers are off duty.

2. Carrier shall compensate the affected telegrapher employes as follows:

J. M. McLean, Laredo, four calls, 12 hours at \$2.6928, various dates — \$82.31.

L. J. Verhunce, Devine, one call, 3 hours at \$2.6703, on September 9, 1963 — \$8.02.

W. R. Mulhollan, Encinal, one call, 3 hours at \$2.6703, November 3, 1963 — \$8.02.

EMPLOYEES' STATEMENT OF FACTS: On October 13, September 29, October 20, November 10, 1963, as well as September 29, 1963 and November 3, 1963, Maintenance of Way employe Jesse Ramirez, a track supervisor working between San Antonio and Laredo and operating a motor car on the main track copied TX lineups direct from the dispatcher on duty. Employes pointed out in the claim that no telegraphers were on duty at the time that MofW employe Ramirez copied the train order direct from the dispatcher, and claims were filed for call payments for the telegrapher assigned to Laredo for October 13, September 29, October 20 and November 10, as well as the operator assigned to Devine for September 29, 1963 and the operator assigned to Encinal for November 3, 1963. Claims were appealed to the highest officer designated to handle claims or grievances and declined by him; claims are now properly before your Board for final adjudication.

10. On November 16, 1964, Carrier received a letter from the General Chairman dated November 12, 1964, wherein he referred to a conference which was held October 15, 1964, to discuss other claims and in the letter indicated that the instant dispute was again discussed at that time. The General Chairman also referred the Carrier to three files which he alleged support the Employees' position in the instant dispute. The files referred to by the General Chairman were reviewed; however, it was found that none of the files were pertinent to the instant dispute and the General Chairman was so advised by Carrier in a letter dated November 24, 1964, which is attached as Carrier's Exhibit C.

(Exhibits not reproduced.)

OPINION OF BOARD: The Employees contend that, on several specified occasions, a Maintenance of Way employee telephoned the dispatcher on duty and obtained from him PX lineups.

The Carrier contends that the PX lineups, in each case, were obtained not from the dispatcher but from telegraphers on duty at distant stations, after the dispatcher advised the Maintenance of Way employee at which stations, telegraphers were then on duty. This contention is supported by the admission of the Employees' district chairman in his letter of December 10, 1963. The Board therefore adopts this as the true statement of what happened.

Awards No. 2 and 10, Special Board of Adjustment No. 305 (McMahon) held that no violation of the Agreement occurs when PX lineups are obtained, by persons not covered by the Agreement, from telegraphers at distant stations. A violation would occur, however, if a PX lineup were obtained directly from a dispatcher by anyone other than a person covered by the Agreement. Since telegraphers at distant stations were the source of the PX lineup information involved in this dispute, the claim 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

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of July 1967.

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