



Award No. 15864
Docket No. TE-16173

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Thomas J. Kenan, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
MISSOURI PACIFIC RAILROAD COMPANY

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

1. Carrier violated the Agreement between the parties when, on November 19, 1964 it required and permitted train service employe on Train No. 67 to report passing Round Rock, Texas at 12:48 A. M., and Extra North departing from Round Rock, Texas at 12:54 A. M. The train dispatcher, located in Palestine, Texas, instructed the telegrapher at Taylor, Texas to secure said reports directly from train service employe by radio.

2. Carrier shall compensate Agent-Telegrapher L. B. Johnson one call, three hours at the pro rata pay applicable at Round Rock, Texas, for depriving Agent-Telegrapher Johnson of work belonging to his position.

3. Carrier violated the Agreement between the parties when on November 23, 1964, it required and permitted train service employe on Second 66 to report that train as passing Hutto, Texas, at 1:10 A. M. This information was secured by Conductor Oden at Taylor, Texas by radio and reported directly to train dispatcher at Palestine, Texas.

4. Carrier shall compensate the senior idle telegrapher, extra in preference, eight hours at the pro rata prevailing telegraphers' rate of pay for the violation at Hutto, Texas.

5. Carrier shall pay six percent per annum on all sums due and withheld as a result of the above violations.

EMPLOYEES' STATEMENT OF FACTS: Round Rock, Texas is located on the Austin Subdivision of the Missouri Pacific Railroad approximately 19 miles north of Austin, Texas. There is a communication office maintained at this point between the hours of 8:00 A. M. and 5:00 P. M. daily except Sunday, with a meal period between the hours of 12:00 Noon and 1:00 P. M. This is a

We are all aware of the fact that a train dispatcher cannot prevent train and engine service employees, or other employees for that matter, from calling him on the telephone and talking to him, which train and engine service employees often do in connection with the operation of their trains over the road. In any event, Dispatcher Bradley accepted no 'report' from Conductor Oden and no entry was made on the train sheet with respect to Second 66 having passed Hutto at 1:10 A. M.

In view of the foregoing, we can find no justification for changing the decision declining these claims giving to you in our letter of April 2, 1965, which is hereby affirmed.

Yours truly,

/s/ B. W. Smith"

OPINION OF BOARD: This dispute involves two separate claims.

The first claim is that Rule 2 (c) of the Agreement was violated when an on-duty telegrapher at Taylor, Texas, rather than an off-duty telegrapher at Round Rock, was utilized by the Palestine dispatcher to radio Train No. 67 at Round Rock for certain information.

Nothing in Rule 2 (c) supports the Employees' position. This claim must be denied. See Award No. 15740 (Kenan).

The second claim is that Rule 2 (c) was violated when a train conductor, called at Taylor, Texas for a 12:45 A. M. connection with Train No. 66 there and waiting in the Taylor station for the arrival of such train, radioed the train to ascertain its position and then telephoned this information to the dispatcher.

The Board agrees that such constitutes a violation of Rule 2 (c). See Award No. 15669 (Kenan), concerning train and engine employees reporting their own trains. Such reports need not be solicited by a dispatcher. Rule 2(c) simply prohibits train employees from reporting their own trains to dispatchers. The fact that the train conductor in this instance had not yet boarded his train is not regarded as removing this incident from the coverage of Rule 2 (c).

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

That the Agreement was violated in one instance (Claim No. 2) and was not violated in the other instance (Claim No. 1).

AWARD

The Carrier shall compensate the senior idle telegrapher, extra in preference, eight hours at the pro rata prevailing telegraphers' rate of pay for the violation that occurred at approximately 1:10 A. M., November 23, 1964, when Conductor Oden reported the position of Train No. 66 to the dispatcher at Palestine, Texas.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of October 1967.