



Award No. 15865
Docket No. TE-16199

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. The Carrier violated The Telegraphers' Agreement Rule 2(c) when, on the 11th day of January, 1965, obtained from Mr. Kelly, whoever he is or what title he holds, at 2:35 P. M. did give OS when stating that No. 50 was by him and should be in Eunice direct to Dispatcher on duty and Mr. Kelly is no operator or agent and being such is in strict violation and being at Tyrone, thus opening an office of communication at that point, and Tyrone is a blind siding.

2. The Carrier shall compensate the Senior idle Telegrapher (extra in pref.) 8 hours at \$2.71 per hour at straight time. Total \$21.68 for the violation and since Mr. J. H. Guillory is senior extra operator, I make this claim in his favor.

EMPLOYEES' STATEMENT OF FACTS: Tyrone, Louisiana is located on the DeQuincy Division of the Missouri Pacific Railroad, eighty-five miles west of Baton Rouge, Louisiana. The only telephone communications at this location are two telephones located at each end of the siding for use in emergency.

On or about 2:35 P. M., January 11, 1965, Motor Car Operator Kelly got on the dispatcher's telephone from a booth at Tyrone, contacted the dispatcher and requested track and time on trains moving over that portion of the DeQuincy Division. The Dispatcher, E. L. Mundy, inquired of Kelly if No. 50 was by and Kelly informed the dispatcher that No. 50 was by Tyrone and should be coming at Eunice. Eunice, Louisiana, is only five miles away from Tyrone, which fixed the time for No. 50 passing Tyrone at or about 2:30 P. M., approximately thirty-seven minutes late on schedule. After receiving this report from Motor Car Operator Kelly, Dispatcher Mundy then issued Kelly the track and time limits on the trains in the vicinity.

Claim was filed in violation of Rule 2(c) for Motor Car Operator Kelly reporting Train No. 50. Claim was appealed to the highest officer and declined by him.

dispatcher at Houston. During the conversation Mr. Kelly advised the dispatcher that Train No. 50 was by him, but no time and location was given. As you know, there is no provision in the Agreement which prohibits a motor car operator from securing track and time limits from the dispatcher; furthermore, the essentials of an 'OS' or report is that time and place be made definite and certain.

In view of the foregoing, there is no basis for this claim and it is, therefore, respectfully declined.

Yours truly,

/s/ B. W. Smith

OPINION OF BOARD: On January 11, 1965, a motor car operator at Tyrone, Louisiana, telephoned the dispatcher for a track and time limits authority to enter the main track in "centralized traffic control" (CTC) territory. The dispatcher asked if Train No. 50 had passed the point where the motor car operator desired to enter the main track. The motor car operator replied that Train No. 50 had passed him and should be arriving at Eunice. The Employees contend that this reply constituted a train report and violated the provisions of Rule 2(c) of the Agreement.

The Board finds that no violation of Rule 2(c) occurred. Rule 2(c) prohibits train and engine service employees from reporting trains. The motor car operator was not a train or engine service employee. Neither was his communication a train report. See Awards No. 12311 (Wolf), 14028 (Hamilton), No. 1 of Special Board of Adjustment No. 100 (Douglass) and 14536 (Perelson).

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 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 20th day of October 1967.

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