

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 on the Missouri Pacific Railroad (Gulf District) that:

1. The Carrier violated the Agreement in Rule 2(c) of the Telegraphers' Agreement when on the 21st day of January 1965, obtained from Section Foreman Landry at Lottie an OS stating that Extra 746 West was by him giving this information direct to the dispatcher and knowing that Section Foreman Landry is no operator, do claim in strict violation of the rules.

2. The Carrier shall compensate the senior idle telegrapher (extra in preference) eight hours at \$2.71 per hour at straight time, total \$21.68, for this violation and since Mr. R. J. Touchette is senior extra operator, I make this claim in his favor.

EMPLOYEES' STATEMENT OF FACTS: The undisputed facts are that Section Foreman Landry at Lottie used the dispatcher's telephone on January 21, 1965 at or about 9:00 A. M. and reported that Extra 746 West was by him. The apparent purpose of reporting Extra 746 West by Lottie was so that the dispatcher could put out track and time limits to Section Foreman Landry.

Claim was made in behalf of the senior idle extra telegrapher for the violation and Claimant R. J. Touchette was declared to be the senior extra operator. Claim was appealed to the highest officer and declined by him. The claim is now properly before your Board for final adjudication.

CARRIER'S STATEMENT OF FACTS:

1. There is an agreement in effect between the Missouri Pacific Railroad Company and the Employees thereof on the Gulf District represented by the Transportation-Communication Employees' Union, which became effective March 1, 1952, copies of which are on file with your Board. The agreement is by reference made a part of this submission.

Obviously the object of the telephone conversation was to secure track and time. No record was entered on the train sheet of Extra 746 passing Lottie; the dispatcher did not need, or request, such information for the furtherance of any train. The time was not definite, which is another reason that the telephone conversation could not be classed as a train 'report.'

The information which you contend constituted a train 'report' does not meet the test used by Special Board No. 506; therefore, claim is without merit or rule support and is hereby declined.

Yours truly,

/s/ B. W. Smith"

OPINION OF BOARD: On January 21, 1965, a section foreman at Lottie, Louisiana, which is situated within CTC territory, telephoned the dispatcher and requested track and time authority to enter the main track at that point. The dispatcher inquired whether Train Extra 746 West had passed the point where the Section Foreman desired to enter the track. The Section Foreman replied that Extra 746 West "just went by Lottie." This, the Employees contend, was equivalent to an "OS" and constituted a violation of Rule 2(c) of the Agreement.

The facts in this dispute are similar to those in Award No. 15865 (Kenan). For the reasons therein stated, this 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 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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