

Award No. 15996
Docket No. TE-14845

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Western Lines)

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

1. The Carrier violated the Agreement between the parties when it required or permitted telegraph service employees of the D&RGW Ry. and the C&S Ry Co., Trinidad, Colorado, to handle communications direct with the Santa Fe Train Dispatchers at Las Vegas, N. M.

2. Carrier shall now restore the duties and work herein complained of to the employees under the Agreement.

3. Carrier shall now compensate the telegraph service employees hereinafter named in Employees' Statement of Facts for a day's pay each day as indicated therein.

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

This dispute arose account the Carrier requiring or permitting employees of the D&RGW Railway at Trinidad to transmit train reports and "boards" direct to the Santa Fe dispatchers at La Junta, Colorado, and additionally, permitted or required employees of the C&S Railway Company to transmit train reports and "Boards" to the AT&SF Dispatchers at Las Vegas, New Mexico.

In the printed Agreement at Page 73, we find the following:

"C&S Crossing.....Telephoner-Towerman (3).....(L)..... 1.645"

Telegraph service employees working thereat were covered by the Agreement and performed all services including the transmitting of train reports, crew consists, known as "Boards," and other matters of record to the Santa Fe train dispatchers at Las Vegas, New Mexico, and La Junta, Colorado, respectively.

9350 Relief Operator No. 7
Pos. 2006 Springer Sun-Mon Fri-Sat
Pos. 6306 Trinidad Tuesday
Pos. 6310 Springer Wed-Thurs

OPINION OF BOARD: The Organization before this Board, claims that Carrier violated the Agreement when it required or permitted telegraph service employes of the D&RGW Railway and the C&S Railway, Trinidad, Colorado, to handle communications directly with the Santa Fe dispatchers at Las Vegas, New Mexico. A perusal of the record discloses that this is a departure from the claim handled on the property where the Organization complained of telegraph service employes of the D&RGW Railway at Trinidad, Colorado, improperly handling communications with the Santa Fe train dispatchers at "La Junta, Colorado" — not Las Vegas, New Mexico.

Where the claim, as here is at variance with the claim which is presented on the property, this Board has no jurisdiction. See Railway Labor Act, 45 U.S.C.A. §153-First (i); Circular No. 1; Awards 4346 (Robertson), 5077 (Coffey), 6692 (Leiserson), 10193 (Begley), 10537 (Sheridan), 10749 (Stark), 10873 (Hall), 11904 (Hall), 12124 (Dolnick), 12352 (Yagoda), 13235 (Dorsey), 13664 (Kornblum), 14135 (Rohman), 14298 (Rambo), 14747 (Rambo), 15019 (Hamilton), 15063 (Ives), 15449 (Dorsey), 15712 (Engelstein) and 15877 (Miller); and also see Award No. 5 of P.L. Board No. 34 (Dorsey). Therefore, the claim is dismissed without prejudice.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier did not violate the Agreement under the claim herein.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1967.

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