Award No. 16270
Docket No. TE-15390

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, 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 Order of Railroad Telegraphers on the Missouri Pacific Railroad — Gulf District, that:

1. The Carrier violated the Telegraphers' Agreement of March 1, 1952 when, on October 28, 1963 it issued Train Order No. 52 at Kinder, La., addressed to C&E Extra 730 West and Work Extra 727 on line care Eng. Extra 730 West, thus causing Engr. on Extra 730 West to perform telegrapher's duties by delivering this train order between Kinder, La. and DeQuincy, La.

2. The Carrier shall compensate the senior idle telegrapher, extra in preference, for this violation in the amount of 8 hours at $2.53 per hour, total $20.24.

Also,

1. The Carrier violated the Telegraphers' Agreement when on October 28, 1963 it issued train orders number 33 and 34 at DeQuincy, La., to C&E Work Extra 727 on line care Engr. No. 50, thus causing Engr. on No. 50 on this date to perform telegrapher's duties by delivering these two train orders.

2. The Carrier shall compensate the senior idle telegrapher, extra in preference, on this date for this violation in the amount of 8 hours at $2.53 per hour, total $20.24.

EMPLOYES' STATEMENT OF FACTS: On October 28, 1963, Work Extra 727 was working between DeQuincy and Kinder. Train Orders No. 52 and 33 and 34 were copied by telegraphers at Kinder and DeQuincy, Louisiana. In each instance the train orders were given to the train crews of different trains to deliver to the Work Extra operating somewhere between these two points. Claims were filed in behalf of the senior idle telegrapher for eight hours' pay for the two separate violations. Claims having been appealed to

OPINION OF BOARD: On October 28, 1963, the train dispatcher at Houston issued train orders to the telegraphers at DeQuincy and Kinder, Louisiana, directed to C&E Work Extra 727 on line care of Engineer No. 50 and to C&E Extra 730 West and Work Extra 727 on line care of Engineer Extra 730 West. The orders were delivered to the crews which were working between Kinder and DeQuincy by the engineers indicated. There was no telephone or telegraph service maintained at the work sites concerned.

The Employes filed a claim for eight hours' compensation in each instance on the theory that the copying and delivering of train orders has been reserved to the telegraphers under their Agreement. They assert that Rule 2(d) requires delivery of orders by telegraphers where telegraph and telephone services are not maintained, and that indeed telegraphers' jurisdiction over all handling of such orders is also protected by the Scope Rule.

The Carrier has denied the claim, relying on Award No. 13 of Special Board No. 506, which dealt with similar delivery of train orders "in care of" a trainmaster who took orders from the telegrapher and delivered them to the crew concerned. The Carrier refers to Award No. 13 which points out that the Agreement does not prohibit employes other than telegraphers from carrying such orders to other locations, under similar circumstances.

The facts of this case are clear and sufficiently identical to those considered by Referee Ray in Award No. 13 of Special Board of Adjustment No. 506.

The holdings in that case are dispositive of the issues raised herein.

Accordingly, we must deny the claim.

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 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 2nd day of May 1968.

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