



Award No. 16484
Docket No. TE-15824

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Bernard E. Perelson, Referee

PARTIES TO DISPUTE:

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

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 Scope Rule 1 and Rule 2(c) of the Telegraphers' Agreement when on the 3rd day of May 1964, it required and permitted Conductor Brichett, an employee not covered by the Telegraphers' Agreement at Sarita, Texas, to copy and deliver train order No. 15 to C&E Extra 444 North at Sarita.
2. Carrier shall compensate senior idle telegrapher (extra in preference) 8 hours at the pro rata prevailing telegraphers' rate of pay for this violation.

EMPLOYEES' STATEMENT OF FACTS: Sarita, Texas is located on the Kingsville Division of the Missouri Pacific Railroad, Gulf District, 21 miles south of Kingsville, Texas. There are no communication facilities maintained at this point other than phone booths at each end of the passing track for use only in emergency conditions. On the 3rd of May 1964 when this dispute arose, there were no emergency conditions existing at Sarita.

At or about 7:30 A. M., May 3, 1964, Conductor Brichett contacted the train dispatcher who was located in Houston, Texas over the telephone at Sarita, Texas and requested additional time on passenger train No. 55. Dispatcher B. J. McCarthy immediately complied by issuing Train Order No. 15, which read as follows:

"Order No. 15.

C&E Extra 444 North at Sarita.

No. 55 Engine 738 wait at Kingsville Yard until 8:30 A. M.

/s/ B. J. M.

Complete 7:37 A. M."

stances surrounding this dispute place it within the exceptions to Rule 2(c) and the claim is hereby declined.

Yours truly,

/s/ B. W. Smith"

OPINION OF BOARD: The issue presented by this Docket is the same issue involved and decided by this Board in Award 16483.

For the reasons stated in Award 16483, this claim will 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of July 1968.