

Award No. 19111

Docket No. TE-17380

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Clement P. Cull, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION
EMPLOYES**

(Formerly Transportation-Communication Employees Union)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Southern Pacific Company (Pacific Lines), that:

1. Carrier violated the Agreement between the parties when on February 10, 1965, it caused or required an employe not covered by the Agreement to transmit a message of record from Corona, New Mexico to the telegrapher at Vaughn, New Mexico.

2. Carrier shall compensate the senior idle extra employe for one day's pay and if no extra employes available Carrier shall compensate Telegrapher-Clerk F. S. Anaya, Corona, New Mexico, for the above violation.

EMPLOYES' STATEMENT OF FACTS: The Agreement between the parties effective October 15, 1963, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Mr. F. S. Anaya, hereinafter referred to as claimant, was on claim date regularly assigned to the third shift telegrapher-clerk position at Corona, New Mexico, assigned hours 12:01 A. M. to 8:00 A. M., rest days Wednesday and Thursday.

On Wednesday, February 10, 1965, at 2:25 A. M. signal maintainer Yandell telephoned the following communication of record from Corona, New Mexico to the telegrapher at Vaughn, New Mexico.

HDH
HAG TUCSON
EHS CARRIZOZO

"Corona, N. M. 2-10-65

Signal 1455.8 reported at stop by No. 4, 920 P. M.
Signal clear 2:00 A. M. cause of trouble grounded motor.

s/ E. F. YASDELL,
Signal Maintainer 2:25 A. M."

CARRIER'S STATEMENT OF FACTS: 1. There is in evidence an agreement (hereinafter called the current agreement) between the Carrier and its employees represented by the Petitioner, having effective date of December 1, 1944 (reprinted October 16, 1963, including revisions), a copy of which is on file with this Board and is hereby made a part of this submission.

2. At 2:00 A.M., February 10, 1965, Signal Maintainer E. F. Yandell completed repairs to Signal No. 1455.8 on Carrier's Tucson Division main track, and returned to his headquarters at Corona, New Mexico. From Corona, he telephoned the telegrapher on duty at Vaughn, New Mexico, and arranged the issuance of a message reporting completion of the signal repairs to the Chief Train Dispatcher and two Signal Department Supervisors. The text of the message issued by the Vaughn telegrapher is essentially as quoted in the record.

3. The Third Telegrapher-Clerk position at Corona, New Mexico, has assigned hours 12 Midnight to 8:00 A.M., rest days Wednesday and Thursday. The rest days of this position are not incorporated into a relief schedule and on the date of this claim, Wednesday, February 10, 1965, the assigned incumbent, the claimant, was observing his first rest day and the position was blanked.

4. By letter dated March 11, 1965 (Carrier's Exhibit "A"), Petitioner submitted claim to Carrier's Division Superintendent on behalf of claimant for one special call February 10, 1965, contending the disputed work violated the current agreement, especially Rules 1, 2, 3, 4, 14, 16, 17 and 19.

5. By letter dated April 15, 1965 (Carrier's Exhibit ("B")), Carrier's Division Superintendent denied the claim.

By letter dated June 10, 1965 (Carrier's Exhibit "C"), Petitioner's General Chairman appealed the claim to Carrier's Assistant Manager of Personnel, who denied same by letter dated November 8, 1966 (Carrier's Exhibit "D").

(Exhibits not reproduced.)

OPINION OF BOARD: The record clearly shows that the claim submitted to the Board is not the claim which was handled on the property.

In Award 18322, involving these same parties, the effect of such amendment of a claim upon presentation to the Board was thoroughly discussed. Accordingly, the claim will be dismissed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 does not have jurisdiction over the dispute involved herein; and

That the claim must be dismissed for lack of jurisdiction.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of April 1972.