

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19725
Docket Number TE-19682

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(Formerly Transportation-Communication Division, BRAC
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(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Division, BRAC, on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, T-C 5835, that:

1. Carrier violated the terms of Agreement May 18, 19, 20, 21 and 22, 1970, and continues to violate the terms of Agreement Monday through Friday of each week subsequent to these dates when it by-passes the Telegraphers at West Yard, Sioux City, Iowa and requires or permits the transmission and/or reception of car data and other communications of record at other offices in Sioux City by methods and procedures other than those established by Agreement, thus depriving telegraphers at West Yard of work to which they are entitled.

2. As a result of these violations, Carrier shall now pay D. P. Friedenbach one day's pay at penalty rate Monday May 18, 1970; R. R. Doering one day's pay at penalty rate Tuesday and Wednesday, May 19 and May 20, 1970; O. W. Sandbeck one call (3 hours at pro rata rate) Thursday and Friday May 21 and May 22, 1970, and

3. As long as these violations continue, Carrier shall pay D. P. Friedenbach one day's pay at penalty rate each Monday subsequent to May 18, 1970; R. R. Doering one day's pay at penalty rate each Tuesday and Wednesday subsequent to May 19 and May 20, 1970; O. W. Sandbeck one call (3 hours at pro rata rate) for each Thursday and Friday subsequent to May 21 and May 22, 1970.

OPINION OF BOARD: The dispute in this case is unique in that it is not the usual type of claim based on the removal of work from the scope of the Agreement, which is normally progressed to this Board. One need only analyze the statement of claims to ascertain that no telegrapher's work was transferred to, or performed by employees of other classes or crafts nor was it contracted out. The issue appears to arise from technological changes and differences in types of equipment used.

While the submission of the Organization as well as the correspondence on the property exhaustively set forth the history and development of the Telegrapher's Agreement, the Petitioner did not tell us what specific items of work were allegedly being performed outside the scope of the Telegrapher's Agreement, who was performing the work, or on what specific days any alleged violation took place. These facts are the essential ingredients in perfecting cases of this nature. Since the record is devoid of any probative evidence, we will dismiss this claim for lack of proof of any contract rule violation.

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 Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1973.