

Award No. 37
Docket No. 37

MOP File 380-1055-158
ORT File 1242

SPECIAL BOARD OF ADJUSTMENT NO. 117

ORDER OF RAILROAD TELEGRAPHERS
and
MISSOURI PACIFIC RAILROAD COMPANY

Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad that:

1. Carrier violated the provisions of the agreement between the parties when it failed and refused to compensate W. R. Carrell, at the rate of time and one-half for the work performed on the second shift Telegrapher-Clerk's position, on Monday, September 12, and Tuesday, September 13, 1955, at Claremore, Oklahoma, the 6th and 7th days in his work week.
2. Carrier shall now pay W. R. Carrell the difference between the straight time rate which he was paid and the time and one-half rate which he should have been paid for the work performed on September 12th and 13th, on the 2nd shift Telegrapher-Clerk's position at Claremore, Oklahoma.

OPINION OF BOARD: An examination of the facts of record in this particular case reveal that the respondent here failed to comply with the 72-hour notice provisions of Rule 8, Section 2(k); however, in view of the fact that the Organization failed to raise this issue with the respondent at the time this dispute was handled on the property, it cannot here now be considered. This finding and holding is in accordance with awards of the Third Division which are so extensive as to preclude necessity for their citation here.

While other existing facts in this claim are not identical with those present in Docket No. 28, said claim under consideration here involve the same parties and the same rules as were present in Docket No. 28, Award No. 28, previously considered by this Board.

It is the opinion of the Board that the controlling factual situation here present, when considered in the light of the cited rules, is comparable to that considered and applied in the aforesaid award. For the reasons stated and to the extent indicated in Award No. 28, this claim is denied.

FINDINGS: The Special Board of Adjustment No. 117, 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.

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That this Special Board of Adjustment has jurisdiction over the dispute involved herein; and,

That the Carrier did not violate the effective agreement.

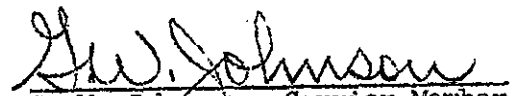
AWARD

Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 117


Livingston Smith - Chairman


C. O. Griffith - Employee Member


G. W. Johnson - Carrier Member

St. Louis, Missouri
July 26, 1956

