

Award No. 58
Docket No. 58

MOP File 380-1656
ORT File 1249

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 terms of the Agreement between the parties when on November 8, 1955, it required or permitted an employee not covered by the Telegraphers' Agreement to perform the duties of a telegrapher in receiving the transmission of a communication of record;
2. Carrier shall now compensate T. D. Reese, Manager of the Nevada Relay Office, one call of three hours at the rate of \$2.105 per hour in payment for the work he was available for and entitled to perform.

OPINION OF BOARD: Claim is here made in behalf of one T. D. Reese, Manager of the Nevada Relay Office, for a call of 3 hours account the respondent allegedly failing to call him on November 8, 1955, in connection with the transmission of what the Organization says constitutes a diversion order.

The Organization pointed out that the message in question was filed in the "GM" telegraph office, St. Louis, at 12:36 a.m., November 8, some 7 hours before the Nevada office was to be opened, at which place the communication was handled by the train dispatcher in the Nevada dispatcher's office. It asserted that the message in question was a "Green" which required expeditious handling and concerned a matter the handling of which inured to those covered by the scope of the effective agreement to the exclusion of any other individual or any other craft.

The Organization further pointed out that the issue involved herein had previously been decided by Special Board of Adjustment No. 117 in its Award No. 14 in which it was held that the sending and receiving of diversion orders was work belonging exclusively to the telegraphers.

The respondent here asserted that its action in permitting receipt of the information here in question by the train dispatcher at Nevada was strictly in accordance with custom and practice on the property and was not the type of work to which the telegraphers had the exclusive right.

The respondent asserted that the message with which we are here concerned was not a diversion order and that it was not necessary for the Carrier to have a record thereof inasmuch as it was only a communication seeking advice as to whether or not a diversion order previously handled two days prior had been carried out.

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The message in question reads as follows:

"St. Louis, 11-8-55

"Hughes, Nevada

Mine sixth car-SFRD 3633 waybill MDT 3633 advise done forwarding car to Durham N. C. and sending WB to Joplin Mo. RC-15216-7 car SFRD 3633 waybill MDT 3633.

Darwin"

If the above message is, in truth and in fact, one which pertains or amounts to a diversion order either primarily or secondarily, it is a message of record within the meaning of both prior awards of the Third Division of the National Railroad Adjustment Board and Award No. 14 of Special Board of Adjustment No. 117. On the other hand, if it is a message which seeks information pertaining to the completion of a diversion order which had already been communicated, it cannot be said that the information therein contained related to the "control of transportation" within the meaning subscribed to that term or that the message was one for which there existed both a "requirement of" and a "need for" that such information relating therefrom be "made of record" within the meaning of our findings and holdings in Award No. 14.

We cannot conclude that the message above quoted was a diversion order. An examination of the verbage thereof indicates that the office at Nevada had previously been given advice concerning the diversion of a car whose number and attached waybill had therein been contained. The Board concludes that the message here was, in effect, a "tracer" seeking information as to whether or not the previously requested diversion had been completed. This being so, we cannot here find or hold that this message related to "control of transportation" and constituted a message of record for which a "need for" or "requirement of" existed that it be made "of record". The facts of record here are clearly distinguishable between those which existed and upon which the Board passed upon in Award No. 14.

The claim here is without merit.

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.

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

That the Carrier did not violate the effective agreement.

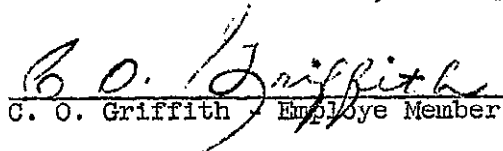
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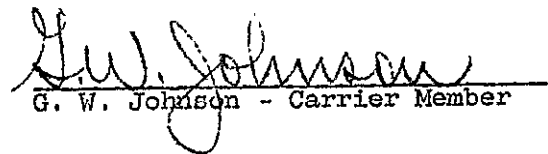
AWARD

Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 117


Livingston Smith - Chairman


C. O. Griffith - Employee Member


G. W. Johnson - Carrier Member

St. Louis, Missouri
August 9, 1956