

Under the
RAILWAY LABOR ACT
Special Board of Adjustment No. 226

Hearings April 9-30, 1958

Dallas, Texas

Award No. 27



PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

MISSOURI-KANSAS-TEXAS LINES

STATEMENT OF CLAIM:

ORT Claim No. MSC 9-22 is on behalf of Mr. O. A. Taylor that he was unjustifiably dismissed from the Carrier's service; and that he shall now be returned to his former position as Agent at New Braunfels, Texas and paid for all time lost less amount earned in other service.

FINDINGS AND OPINION:

Mr. O. A. Taylor while serving as Agent at New Braunfels, Texas, was dismissed from service by the Superintendent effective October 14, 1957. The pertinent part of the letter of dismissal dated October 11, 1957 follows:

"You are being removed from service for insubordination in connection with your statement that you would not forward twelve waybills to stations on T & NO by Saturday PM, after being told to give this preference over other work."

As requested by Mr. Taylor, an investigation was held in Waco on October 25, 1957, a date mutually satisfactory to both parties. The Assistant Superintendent conducted the investigation. The Superintendent was the only witness.

The testimony reviewed the work load, the revenue, the reduction at New Braunfels from an Agency with three clerks to a one-man agency within a period of about a year. It also reviewed the contacts the Superintendent had very recently made with Mr. Taylor about falling behind with important work.

On October 11, the Superintendent called Mr. Taylor on the company telephone to discuss the importance of issuing and forwarding certain waybills to certain stations on the T & NO without further delay. The Superintendent directed that the waybills must be forwarded not later than the next day (Saturday) at office closing time at New Braunfels. The Superintendent testified that Mr. Taylor replied that he was "too busy" with other duties to forward the waybills within the time directed. Upon pressing Mr. Taylor for a positive answer about forwarding the waybills within the time directed, the Superintendent testified that Mr. Taylor said:

"The answer is 'No'".

Mr. Taylor did not testify, although invited to do so.

In his letters to the Superintendent before and after the hearing at Waco on October 25, 1957, Mr. Taylor apologized and stated that it was not his intention to be insubordinate in his conversation with the Superintendent on telephone on October 11. He stated that he was only trying to explain to the Superintendent that, with other pressing station

duties, it would be impossible for him to forward the waybills as requested. Since October 12, the day the waybills were to be forwarded, was Saturday there was some confusion in Mr. Taylor's mind about whether he was expected to work overtime on Saturday to accomplish the work.

General Rule N provides in part:

"Employees who are....negligent....insubordinate....will not be retained in the service."

Rule 501 (1) provides in part:

"Employees whose duties are prescribed by these rules will report and comply with instruction from the Superintendent."

General Notice, provides in part:

"The service demands the faithful, intelligent, and courageous discharge of duty."

Late in November, 1957, two of the former clerks at New Braunfels, who still reside in the community, submitted strong letters in support of the position that one man can not perform the large volume of work at that station. One of the clerks had worked at the New Braunfels station for 21 years, the other one for 15 years. Their letters are in the record with the consent of the Carrier. One of these clerks expresses it as his conviction that "it would be in the best interest to the company and to the shipping and traveling public if he (Mr. Taylor) was reinstated as agent here."

Nine entries were submitted from Mr. Taylor's past record. They are not good. The Carrier emphasized that its action in dismissing Mr. Taylor was strengthened by his past record.

Mr. Taylor is 65 years of age. He has 28 years seniority with the Carrier. He has been Agent at New Braunfels "for some 15 or 20 years."

The Special Board finds that it will be in the best interest of all concerned for the Carrier to reinstate Mr. O. A. Taylor forthwith. He shall not be compensated for time lost between the date of his dismissal, October 14, 1957, and the date of his reinstatement. If he earned a vacation in 1956 normally to be enjoyed in 1957, such vacation compensation shall be paid as required by the rules, if not taken. He shall be permitted to return to his former position at New Braunfels if he elects to try to perform the work there in the degree of efficiency required of him.

AWARD:

Claim sustained as per findings and opinion.

/s/ Daniel C. Rogers
Daniel C. Rogers, Chairman
Fayette, Missouri

/s/ W. I. Christopher
W. I. Christopher, Employee Member
Deputy President, O. R. T.
3860 Lindell Blvd.
St. Louis 8, Missouri

/s/ A. F. Winkel
A. F. Winkel, Carrier Member
Ass't. General Manager
Missouri-Kansas-Texas Lines
Dallas, Texas

Dallas, Texas

August 1, 1958