

Award No. 16

Docket No. 16

SPECIAL BOARD OF ADJUSTMENT NO. 553
THE ORDER OF RAILROAD TELEGRAPHERS
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

ROY R. RAY, Referee

STATEMENT OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Pacific (Pacific Lines), that:

1. The Carrier violates the terms of an Agreement between the parties hereto when it fails and refuses to fill the car distributor's position at Bakersfield, California, the occupant of which is required to telegraph in the performance of his duties, in accordance with the provisions of the parties' Agreement.
2. The Carrier shall, because of the violation set out in Part 1 of this Statement of Claim, so long as the occupant of the car distributor's position at Bakersfield, California is required to telegraph in the performance of his duties, advertise the position to employees covered by the parties' Agreement in accordance with the bulletin and seniority rules thereof.
3. The Carrier shall, in addition to the foregoing, compensate the senior qualified idle extra telegrapher, or in the absence of such, the senior idle (on their rest days) regularly assigned telegraphers at Bakersfield, California, a day's pay at the car distributor's rate, for each date commencing June 27, 1960, and for each date thereafter so long as the violation complained of continues."

OPINION OF BOARD:

The sixteen telephone calls in this claim are the same calls which formed the basis of Claim 3 of Award 14 of this Board. They were all made by the Agent at Monolith to the Car Distributor at Bakersfield on dates between March 24 and April 13, 1959. Each gave a car situation report including the number of empty cars on hand, number billed, number

without bills and the tonnage of East and West cars. The items of the claim here are different. In Item 1 the Organization claims that Carrier violates the Agreement when it fails and refuses to fill the car distributor's position at Bakersfield with a telegrapher. In Item 2 it asks that the Carrier advertise the position to employees covered by the Telegraphers' Agreement; and in Item 3 that Carrier compensate the senior qualified idle extra telegrapher at Bakersfield for a day's pay at the Car Distributor's rate from June 27, 1960, and as long as the alleged violation continues.

This claim is really a demand that the Car Distributor's position at Bakersfield (a position now and for more than forty years covered by the Agreement between Carrier and the Brotherhood of Railway Clerks) be placed under the Telegraphers' Agreement.

The Organization's argument is that the word "telegraph" is synonymous with "telephone" and since the Agreement covers the Car Distributor when required to use the telegraph in the performance of his duties this means that when he is required to use the telephone he is covered by the Telegraphers' Agreement.

Carrier contends that the Scope Rule does not cover the Car Distributor position as it exists on this property because he is not required to use the telegraph in the performance of his duties. It says there has never been an actual position of "Car Distributor" represented by the Telegraphers in the thirty-nine years since the present language of the Scope Rule ("car distributors, if required to telegraph in the performance of their duties") was adopted March 1, 1925. As a matter of history Carrier states that prior to 1924 four telegraph wires had been

put in the Car Distributor's Office at Bakersfield. On March 24, 1924, the General Chairman requested that Carrier either include the position of Car Distributor under the Telegraphers' Agreement or remove the wires. The wires were removed. In the next Agreement (March 1, 1925) the present language, quoted above, was added to the Agreement presumably to prevent Carrier from having a Car Distributor using the telegraph. The matter of representation of the Car Distributor was the subject of mediation in 1932 and the case was withdrawn leaving the Car Distributors with the Clerks.

After a thorough study of the record and all awards cited by the parties we are convinced that the Scope Rule does not cover the use of the telephone by Car Distributors in the performance of their duties. At the time the present language ("car distributors, if required to telegraph in the performance of their duties") was adopted in 1925 the telephone was in common use by the Car Distributors and we think that the events giving rise to the new language show that it was to be literally applied. Car Distributors were already represented by the Brotherhood of Clerks and if the parties had intended to put them under the Telegraphers' Agreement they would have used broader language such as "Car Distributors when required to use the telegraph or telephone, or when required to perform communication work." The record shows beyond any question that the Car Distributors have been using the telephone on this property for handling car distribution and making car reports for approximately forty years. In our judgment the Organization has presented no evidence or authority to support its demand that the Car Distributor's position be placed under the Telegrapher's Agreement because the occupant

is required to use the telephone. Our conclusion is in line with Award 11805. Consistently with our rulings in Award 14 (Claim 3) and Award 12 (Claim 4) we hold that the claim is without merit.

FINDINGS

That the Agreement was not violated.

AWARD

The claim is denied.

SPECIAL BOARD OF ADJUSTMENT NO. 553

Roy R. Ray
Roy R. Ray, Chairman

D. A. Bobo
D. A. Bobo, Employee Member

L. W. Sloan
L. W. Sloan, Carrier Member

San Francisco, California

June 28, 1965