Award No. 20

Docket No. 20

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 Company (Pacific Lines) that:

Claim No. 1

1. The Carrier violated the parties' Agreement when, on April 29, 1959, it required or permitted a roadmaster at Pringle, Oregon, and the assistant chief train dispatcher at Eugene, Oregon, neither of whom are covered by the parties' Agreement, the former to transmit and the latter to receive, a message over the telephone.

2. The Carrier shall, because of the violations set forth above, compensate the following:

(a) T. J. Sprinkel, 1st telegrapher-clerk, Pringle for one special call.

(b) H. S. Fults, 1st telegrapher-clerk, Eugene, for one special call.

Claim No. 2

1. The Carrier violated the parties' Agreement when, on July 13, 1959, it required or permitted a car repairman at Beaumont, California, not covered by the parties' Agreement, to transmit a message over the telephone (dispatchers), outside the assigned hours of the agent-telegrapher.

2. The Carrier shall, because of the violation set forth above, compensate C. D. Casper, regularly assigned agent-telegrapher, Beaumont, California, for one special call."

OPINION OF BOARD:

This case includes two separate claims in which the Organization contends that employes other than Telegraphers used the telephone for transmission of messages which under the Scope Rule may be transmitted only by telegraphers.

Claim No. 1

The Roadmaster at Pringle, Oregon called the Assistant Chief Train Dispatcher at Eugene and gave him the following message: "Place a slow order in effect April 30 for 1 day only. Between 8:45 A.M. and 3:30 P.M. do not exceed 20 M.P.H. over east switch Hito M.P.742.1."

The Organization contends that this message affected the movement of trains and the safety of persons and personnel. Carrier says that what controlled train movements was the train order issued the next day and that it is a common practice for maintenance of way foremen to call dispatcher and request that slow order be issued.

We believe this message clearly related to the movement of trains. There would also seem to be little doubt that there is either a requirement or a need for making this kind of information a matter of record. The act of the Roadmaster in notifying the Dispatcher of his work limits for the next day and the need to reduce speed of all trains moving at that point was certainly important to the Dispatcher in determining the proper movement of trains over the area the following day. We have read all of the awards cited and consider the best reasoned opinion to be that of Referee Smith in Special Board of Adjustment No. 117 (Award 17), where the fact situation was the same as that here. Another recent Award to the same effect is Special Board of Adjustment No. 355 (Award 253). Both Awards were by a unanimous Board. Awards 145

of Special Board of Adjustment No. 355 and 5792 of the Third Division support our position.

We have carefully considered Award 12618 (Claim 1) cited by Carrier, where the Foreman requested the Dispatcher to "Cancel slow order between 288.5 and 289.5". In that case the Board said the message was not a train order and no record was made of it; that the train order was sent later by the Dispatcher. This was the entire reason given by the Board. In our judgment it completely misses the point. The question involved there as in our case was not whether the message was a train order but whether it affected the movement of trains. We have no doubt that it did. Award 11812, also cited by Carrier, also missed the point as to whether the communication affected train movements. The only reason given by the Board was that employes had not shown an exclusive practice on the property. We decline to accept either of these Awards as in any manner controlling the case before us. The claim is sustained.

Claim No. 2

A car repairman at Beaumont called the Dispatcher at Los Angeles and advised that two cars (giving initials and numbers) were ready to go.

The Organization contends that this was a message of record and pertained to the movement of trains. We cannot agree. This was merely a report of work completed. The fact that the cars would later be moved does not show any immediate effect on train movements. Two recent awards of the Third Division on this property are persuasive on this point. In 12615 the claim was based on phone conversation between a car-repairman and a dispatcher wherein the former reported on the

completion of repairs on certain cars and their location. In 12618 (Claim 3) the Roundhouse Foreman at Frink called the Dispatcher at Los Angeles and told him that a certain car was rewheeled and ready to go. In both of these Awards the Board said the messages were not communications of record and did not affect the movement of trains or the safety of passengers or property. See also Special Board of Adjustment No. 525, Award 10. The claim is without merit, and is denied.

FINDING

The Agreement was violated as to Claim No. 1. There was no violation as to Claim No. 2

AWARD

Claim No. 1 is sustained
Claim No. 2 is denied.

SPECIAL BOARD OF ADJUSTMENT NO. 553

Roy R. Ray, Chairman

D. A. Bobo, Employe Member

L. W. Sloan, Carrier Member

San Francisco, California
June 28, 1965