

Award No. 14
Docket No. 14

MOP File 380-1635
ORT File 1239

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 June 14, 1955, about 5:15 p.m., it permitted or required an employee in the Service Bureau, St. Louis, to telephone a diversion order to a yard office clerk at Poplar Bluff without calling T. W. Burns, Manager of the Poplar Bluff Relay Office.
2. Carrier shall now be required to compensate T. W. Burns a call payment of three hours at the pro rata rate of pay for June 14, 1955.

OPINION OF BOARD: The Board is here concerned with claim made by the Organization that Carrier violated the terms of the effective agreement when it permitted or required an employee in the Service Bureau in St. Louis, Missouri, to communicate by way of telephone a "car diversion order" to a yard office clerk at Poplar Bluff when it was required by the rules of the effective agreement to call claimant here, T. W. Burns.

Request is made that the said claimant be compensated for a call of three hours at the pro rata rate for June 14, 1955. The Organization relies upon Rules 1, 10(c), Rule 11(a-3) and Rule 21.

It is asserted by the Organization that the information transmitted by way of telephone from the Service Bureau in St. Louis was, in truth and in fact, a "message of record", the transmittal or receipt of which belonged within the scope of the Telegraphers' Agreement requiring the performance by an employee covered thereby.

The Carrier here took the position that the telephoned information was not a communication of record within the Scope Rule of the effective Telegraphers' Agreement and was not of a type or nature which belonged to those covered by the Scope Rule of the effective agreement.

It was asserted that no record was made of the message until it was determined that it (the Carrier) desired a record of the transaction made, at which time said communication of record was handled by a telegrapher.

The Carrier further asserted that the method used in handling this diversion order was fully proper because of the time element involved, in that

it would have been impossible to have "called" the telegrapher in time for him to receive the message and accomplish the required diversion.

It was further contended that a long existing custom and practice precluded finding and holding that under these circumstances the telephoned message was a communication of record.

As was stated by the Third Division of the National Railroad Adjustment Board in Award 4516, the Scope Rule of the Telegraphers' Agreement does not purport to specify or describe the work encompassed within it. It sets forth the work to which it is applicable.

The traditional and customary work of these positions, generally speaking, constitutes the work falling within the agreement. The Board has sought to follow communication work of the Morse Code operator into the advanced methods of communication and preserve the work which traditionally belonged to them.

In short, the Scope Rule is a reservation of work rule.

The various awards on whether or not communications transmitted by telephone constitute "communications of record" indicate that a relatively fine line of distinction has been drawn as to those types of communication falling within or without the scope of telegraphic work. It is apparent, however, that the awards are clear and distinct in determining messages such as we are here concerned with, even if transmitted by telephone, which concern or relate to the control of transportation, are of a type and nature that require the content thereof to "be made of record".

An examination of the record in this case leaves little doubt that the information transmitted here related to the "control of transportation" within the meaning ordinarily subscribed to that term, and was one for which there existed both a "requirement of" and a "need for" that such information relating thereto be "made of record".

Testimony was given that practically all the contents of the communication here in issue were required to effectuate the desired diversion at the Poplar Bluff station.

There can be no doubt that the Carrier here requires that diversion orders be ultimately made of record. This being true, it cannot be properly said that the time requirements mentioned by the Carrier can be held to justify the performance of work by others than those to which it belongs. In other words, when an employe not under the Telegraphers' Agreement used the telephone under the circumstances of record in this particular case, said employe was impinging upon the work which belonged to telegraphers.

It having been found that the diversion order here in question was one which affected the control of transportation and was, or should have been made, a matter of record, it follows that the same was covered by the Telegraphers' Agreement and was work which belonged to the employes covered thereby.

Therefore, for the reasons expressed, the claim here is meritorious.

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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 violated the effective agreement.

AWARD

Claim sustained.

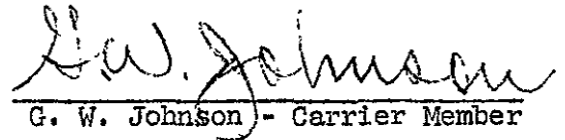
SPECIAL BOARD OF ADJUSTMENT NO. 117



Livingston Smith - Chairman



C. O. Griffith - Employee Member



G. W. Johnson - Carrier Member

St. Louis, Missouri
June 6, 1956