

Award No. 17
Docket No. 17

MOP File 380-1399
ORT File 1017-52

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 agreement between the parties when on Wednesday, June 4, 1952, at Everest, Kansas, it required or permitted Extra Gang Foreman C. R. Pratt, to transmit a message of record, reporting his work limits for the following day by telephone after the station was closed.
2. Carrier shall compensate Agent-Telegrapher E. Sheldon at Everest, Kansas, for a call of three hours at pro rata for June 4, 1952, for the work to which he was entitled to perform.

OPINION OF BOARD: This claim arises out of the allegation by the Organization that the Scope Rule of the effective agreement was violated when the Carrier permitted or required Extra Gang Foreman C. R. Pratt to transmit a message which it alleges is a message of record, reporting his work limits for the following day.

It was asserted that the Extra Gang Foreman should have called the Agent-Telegrapher at Everest to transmit the communication in question and that, by virtue of the failure to so do, the claimant here is entitled to a call of three hours at the pro rata rate.

The Organization asserts that the transmission of the message in question should have been through the Agent-Telegrapher at Everest, rather than having been telephoned by the Extra Gang Foreman to the Telegrapher at Upper Yard in Atchison.

It is asserted that the communication pertained to the movement of trains and, as such, was of necessity a communication of record, the transmission of which came within the scope of the Telegraphers' Agreement and was required to be performed by employees covered thereby.

The Carrier countered with the assertion that the text of the communication in question merely concerned the work plans for the following day and was not a message of record since the message did not in and of itself pertain to the movement of trains and was not addressed to any train crew.

The Carrier further contended that the Extra Gang Foreman, at the time in question, properly acted when he telephoned the message to a telegrapher at Upper Yard, Atchison, to be transmitted to the dispatcher, and that there was no

loss of work to any telegrapher since it was handled by a telegrapher in the one instance, even though there is no requirement that a communication between an Extra Gang Foreman and a Dispatcher be either handled by telegraphers or made of record.

The Carrier asserted that there is no provision in the agreement that requires any message, even though it be a message of record, be filed at any particular telegraph office.

The message in question reads as follows:

"Everest, Kansas 6/4/52

"Dispr. Atchison, Kans.

710 AM to 330 PM June 5th have all trains reduce speed to 20 miles per hour between MP 350 pole 20 to MP 351 pole 20 account gang laying rail.

SGD. C. R. Pratt"

As has been stated in prior awards by this System Board, the criteria for determining whether or not transmission of information by way of telephone belongs within the scope of Telegraphers' Agreement is whether or not the message relates to the movement of trains and/or the subject matter of such information is of a type which there is a need for or the requirement of that said information be made a matter of record.

For the transmission of information by way of telephone to properly inure to a telegrapher, it must be fundamentally information which has been historically transmitted by telegraphers from the days of the Morse Code. The fact that there is a failure to record a message or report which should have been made a matter of record cannot alter the essential character of the work.

An examination of the message in question as above quoted clearly indicates that it related and pertained to the movement of trains in that it gave information concerning not only work limits for the following day but slow order information for other train movements. There can be little doubt that there was a requirement of or a need for making the information contained in the above communication a matter of record. The act of the Extra Gang Foreman of notifying the Dispatcher of his work limits and the need to reduce speed of all trains on the following day moving over a designated area was important to the Dispatcher in determining the proper movement of trains over the area in question on the following day.

As stated in Award 4458:

"It is the rule, established by the decisions of this Board, that the use of the telephone in lieu of telegraph in communicating or receiving messages, orders, or reports of record, is work belonging exclusively to Telegraphers. Awards 1983, 3114, 4280. The work here involved was clearly a report of record as that term is used in the established rule. The track supervisor, not being under the Telegraphers' Agreement, had no right to the work. The agent-telegrapher was available and should have been called. An affirmative award is in order."

For the reasons stated, the instant claim is meritorious.

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.

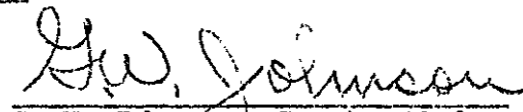
AWARD

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