



AWARD NO. 40
DOCKET NO. 40
CASE NO. 2784

SPECILA BOARD OF ADJUSTMENT NO. 305

THE ORDER OF RAILROAD TELEGRAPHERS
vs.
MISSOURI PACIFIC RAILROAD COMPANY
(Southern & Western Districts)

STATEMENT OF CLAIM:

"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 the 9th day of December, 1957, it failed to use R. J. Diffie, the Regular Assigned employe covered by the Telegraphers' Agreement, who was on duty and entitled to perform the work, and required or permitted Section Foreman Bell, an employe not covered by the Agreement, to transmit a communication of record by telephone at Chidster, Arkansas.
2. Carrier shall now compensate R. J. Diffie, the difference in the rate of pay between Agent-Restricted Operator and Agent-Telegrapher, for 8 hours for December 9, 1957."

OPINION OF BOARD:

The record here shows that prior to February 17, 1956, a position of Agent-Telegrapher existed at Chidester, Arkansas, and that on the above date Carrier reclassified the position to Agent-Restricted Operator, with a reduction in pay from that of the former position. On December 9, 1957, claimant here held the Agent-Restricted Operator position.

On December 9, 1957, a telephone communication was transmitted by telephone from the Section Foreman at Chidester to the Train Dispatcher at Little Rock, as follows:

"Have No. 891 pick up car MP 15246 and allow section gang to unload at Mile Post 449, Pole 6, It will take one hour to an hour and fifteen minutes to unload this."

It is alleged the sending of such message by the Section Foreman was a communication of record and was not transmitted by the Operator, as required under the Telegraphers' Agreement. Claim is made by the employe for the difference in pay for the amount paid by Carrier at the Agent-Restricted Operator pay rate and the rate of Agent-Operator pay, as provided by the Agreement.

Carrier denies the communication involved here is a communication which requires that a record be made, but simply was a request, or a transmittal of requirements by the Section Foreman in order for him to properly perform his work.

AWARD NO. 40
DOCKET NO. 40
CASE NO. 2784

PAGE 2

Nothing is suggested in the alleged message which would require that a message be sent. See Award No. 5660, Third Division, National Railroad Adjustment Board.

From a review of Awards Nos. 17 and 61 of Special Board of Adjustment No. 117, on this property, we do not find that there is a similarity in the facts and circumstances such as here involved. Those awards lend no support to the matter involved here.

In view of the record before us here, we reaffirm the Opinion and Findings of Special Board No. 117, Award No. 15, as applicable to the facts before us.

The record does not support a favorable award.

FINDINGS: Carrier did not violate the Agreement as alleged.

AWARD

Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 305

/s/ Donald F. McMahon - Chairman
Donald F. McMahon - Chairman

Dissenting
R. K. Anthis - Organization Member

/s/ G. W. Johnson
G. W. Johnson - Carrier Member

St. Louis, Missouri
June 7, 1960

File 380-1857