AWARD NO. 21

CASE NO. 24
SSW FILE 47-371-11

SPECIAL BOARD OF ADJUSTMENT NO. 353

PARTIES ) Transportation-Communication Employees Union
)
TO )
)
DISPUTE ) St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

Claim of the General Committee of The Order of Railroad Telegraphers on the St. Louis Southwestern Railway Lines, that:

1. Carrier violated the Agreement between the parties when on June 30, 1963 it failed and refused to permit Clerk-Telegrapher W. L. Stinson, Waco, Texas, to handle clearance card (Form L-2643-A), addressed to C&E No. 128, but required him to leave said clearance card on the train register to be picked up by train service employees after he was off duty.

2. Carrier shall compensate W. L. Stinson in the amount of a call payment; two hours at the time and one-half rate."

OPINION OF BOARD:

The only question to be determined in this case is whether a clearance card is in the same category as a train order.

The rule we are concerned with here is Article 1 of the agreement.

Article 1 reads:

ARTICLE 1

Scope

"1-1. The following rules and rates of pay will apply to all telegraphers, telephoners (except switchboard operators), agent-telegraphers, agent-telephoners, towermen, tower and train directors, levermen-telegraphers, block operators, staffmen and the agents (except ticket agents), whose positions are specifically listed

in Article 28 hereof. The employees covered by this scope rule will hereinafter be referred to as 'EMPLOYEES.'

"1-2. No employee other than covered by this schedule, and train dispatchers will be permitted to handle train orders at telegraph or telephone offices where an operator is employed and is available or can be promptly located, except in an emergency, in which case the employee will be paid for the call."

1-2 is the controlling rule in this case.

Clearance cards are not train orders in the strict sense of the term. However, many awards of the N.R.A.B. 3rd Division and Special Boards have held that the character of the work involved and not the form or manner of transmission is the controlling factor.

Award No. 57, S.B.A. 553 (Ray) stated:

"It is true that none of the messages involved here were train orders or line ups in the strict sense of those terms. However, we have stated the principle many times in other awards of this Board that communications which relate directly to or control the movement of trains belong to telegraphers by virtue of the Scope Rule."

See also 3rd Division Awards 14043, 14283, & 14307 by this Referee.

We will sustain the claim.

FINDINGS: That the agreement was violated.

AWARD: Claim sustained.

Don J. Harr, Chairman

D. A. Bobo, Employee Member

M. L. Erwin, Carrier Member

DISSENTING

Tyler, Texas
December 28, 1966