

AWARD NO. 13
DOCKET NO. 13
ORT CASE NO. 3562

SPECIAL BOARD OF ADJUSTMENT NO. 506

THE ORDER OF RAILROAD TELEGRAPHERS
vs.
MISSOURI PACIFIC RAILROAD COMPANY

Roy R. Ray, Referee

STATEMENT OF CLAIM:

"Claim of the General Committee of The Order of Railroad Telegraphers on the Missouri Pacific Railroad (Gulf District), that:

1. Carrier violated the Telegraphers' Agreement when it transmitted train order No. 17, February 1, 1961 by Trainmaster, Mr. L. D. Alcorn, from Anchorage to T&P Interchange MP-621 Pole 1, addressed to Engine KCS 21 at that point.
2. Carrier shall compensate Extra Telegrapher, Mr. L. J. Bienvenu, for one (1) day's pay, eight (8) hours, at the minimum telegraphers' rate of pay, 8 hours at \$2.4225 total \$19.38, for this violation."

OPINION OF BOARD:

Anchorage, Louisiana, is located on that part of Carrier's DeQuincy Division extending westward from Baton Rouge to DeQuincy - 20 miles east of a point designated as T & P Interchange. On February 1, 1961, the Train Dispatcher at DeQuincy transmitted to the telegrapher on duty at Anchorage an order addressed to Passenger Extra KCS No. 21 at T & P Interchange in care of Trainmaster L. D. Alcorn. After copying the order the telegrapher delivered it to Alcorn who took it to the T & P Interchange and gave it to the crew of KCS No. 21. The order permitted the Kansas City Southern passenger train to detour over Missouri Pacific tracks from Livonia to Anchorage.

Employees contend that the work of delivering the train order by hand in this case belonged to the telegraphers and that Claimant, extra telegrapher, who lived some 30 miles from T & P Interchange, and who was available, should have been called and given the order by phone so that he could drive over to the T & P Interchange to deliver it to KCS No. 21. They allege that Carrier's action was a violation of Rules 2(d) and 14(b) of the Agreement.

Carrier denies any violation and says that no Rule of the Agreement prohibits the action taken in this case. It asserts that Rule 2(d) was not violated here because it applies only when telegraph and telephone service is maintained at the point where the order is sent for delivery. And further that Rule 14(b) has no application to the facts of this case since no employee was used or needed at the detour point. Carrier also urges that Rule 217 of the Operating Rules, effective May 1, 1950 provides for the handling of train orders in the manner used in this case.

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Rule 2(d), upon which employees mainly base their claim, is quite narrow. It reads: "When orders are copied at one point and sent for delivery to a train at another point, where telegraph or telephone service is maintained, the employee at such point will be paid for a call." The rule obviously does not apply to the facts of the instant case. By its very terms the Rule is limited to places where such service is maintained. The record here shows that no telegraph or telephone service was maintained at the T & P Interchange and no telegrapher was employed there. This Board can not strike out the words "where telegraph or telephone service is maintained" and make the Rule applicable to a place where no such service is available and no operator is employed.

In Award 10063, strongly relied upon by Employees as being in point, the provision of the Agreement as to train orders was much broader than Rule 2(d). It said in effect: The handling of train orders at telegraph and telephone offices is restricted to telegraphers and train dispatchers except in case of emergency in which event a telegrapher if available, will be called or paid for a call. Furthermore, in that case an Agent-Telegrapher was employed at the place where the order was sent for delivery and was available.

As to Rule 14(b) it refers to employees used at detour or isolated points or in work-train service being subject to the provisions of the Rule entitled "Emergency Service." We are at a loss to understand the application of that rule to our situation here.

In the handling of the claim on the property and in their submission Employees have based their case upon Rules 2(d) and 14(b). They have not sought to show that by tradition, custom and practice the delivering of train orders in this situation has always been done by telegraphers. In contrast Carrier has relied upon Operating Rule 217 and the practice under it to show that the delivery of the train order in this case was in accordance with the method set forth in that rule. This rule has been in use for many years and we can find no specific provision of the Agreement in conflict with it.

Employees assert that the Agreement does not provide for an officer of the Railroad to carry a train order and deliver it to another train. We might point out that the issue is whether the Agreement prohibits employees other than telegraphers from carrying such an order to another location under the circumstances of this case. The burden is upon the Employees to show that it does. In our judgment Employees have failed to prove that any work belonging to telegraphers under the provisions of the Agreement was performed by the Trainmaster in delivering the train order to the KCS Engine at T & P Interchange. The claim must, therefore, be denied.

FINDINGS: That there was no violation of the Agreement.

AWARD

Claim denied.

SPECIAL BOARD OF ADJUSTMENT NO. 506

/s/ Roy R. Ray
Roy R. Ray - Chairman

/s/D. A. Bobo
D. A. Bobo - Employee Member
St. Louis, Missouri
August 20, 1963 - File 279-187

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