

AWARD NO. 16
DOCKET NO. 16
ORT CASE 3719

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:

Claim No. 1

1. The Carrier violated the Telegraphers' Agreement of March 1, 1952, when it permitted the OSing of Train No. 362 leaving Livonia, La., a blind siding, by a clerk at Anchorage Yard, at 10:55 P.M., September 3, 1961, when just prior the following took place.

Assistant Trainmaster Johnson at Anchorage calling No. 362 on wireless telephone endeavoring to contact him but could not do so. The Dispatcher rang Anchorage Yard Office and asked clerk if he had got No. 362 and the clerk answered 'NO' but that the T&P was trying to get him. Later the clerk came on the dispatchers' telephone and reported (osed) that No. 362 was leaving Livonia now.

2. The Carrier shall compensate the idle telegrapher (extra in preference) for eight (8) hours at the pro rata rate of pay. In case of an extra telegrapher, the minimum rate of which is \$2.42½ per hour, for this violation.

Claim No. 2

1. The Carrier violated the Telegraphers' Agreement of March 1, 1952, when it permitted the dispatcher on duty and a yard clerk at Anchorage Yard to OS No. 74 as follows:

'No. 74 delivered to MP Yard 135 AM; left MP Yard 145 AM with 60 cars. Arrived Anchorage Yard 220 AM.'

At 549 AM, November 2, 1961, when there was no telegrapher-clerk on duty because of abolishing 3rd trick 12 midnight to 8 AM and re-arranging the hours of the second trick telegrapher-clerk to 830 PM to 430 AM on April 25th, 1961.

2. The Carrier shall compensate the senior idle telegrapher (extra in preference) for eight (8) hours straight time rate @ \$2.42½, Total \$19.38, for this violation account Carrier opening a telegraph office at Anchorage Yard on this day.

Claim No. 3

1. The Carrier violated the Telegraphers' Agreement of March 1, 1952, when it opened an office of communication by working other than a telegrapher at Anchorage Yard at 625 A.M., December 8, 1961 to OS No. 362's train departing and delivery time, also reporting consist of No. 393's train of having 96 loads and 34 mtys. 1 mty for Kinder South and 1 mty for Kinder North.
2. The Carrier shall compensate the senior idle telegrapher (extra in preference) for this violation in the amount of eight (8) hours at minimum rate for telegraphers \$2.42½ per hour, total \$19.38, as is shown on the records of the Carrier.

Claim No. 4

1. The Carrier violated the Telegraphers' Agreement Scope Rule 2 (c) when at 10:32 P.M., December 15, 1961 the Yardmaster at Anchorage Yard OSed Train No. 362 'COMING AROUND CHOPPY CURVE.'
2. The Carrier shall compensate the senior idle telegrapher (extra in preference) as shown by the records of the Carrier, for eight (8) hours at the minimum telegraphers' rate of compensation \$2.42½ per hour or a total of \$19.38 for this violation account of reporting of the train thus opening an office and operating it with an employe not covered by the Telegraphers' Agreement.

Claim No. 5

1. The Carrier violated the Telegraphers' Agreement of March 1, 1952, when it permitted the dispatcher to open an office of communication at Anchorage Yard Office on December 27, 1961 when at 5:20 A.M. the dispatcher rang Anchorage Yard Office requesting OS'es on No. 74s train and received departing 1 P.M., arriving 1:40 P.M. with 89 cars.
2. The Carrier shall compensate the senior idle telegrapher (extra in preference) in the amount of eight (8) hours at the minimum rate of compensation of \$2.42½ per hour, or a total of \$19.38 for this violation."

OPINION OF BOARD:

Each of the claims in this docket was filed on behalf of "the senior idle telegrapher, extra in preference." Carrier contends that all five claims are fatally defective and must be dismissed because they do not name the claimants. It insists that the language of Article V 1 (a) of the 1954 National Agreement: "All claims ... must be presented in writing by or on behalf of the employe involved," requires that the employe must be named when the claim is presented.

Carrier relies mainly upon Award 1214 of the Fourth Division, awards of some Special Boards and on Award 10458 of the Third Division, the latter being the only one involving the same identifying phrase used in the present claims.

Employees contend that Article V 1 (a) does not require that the Employee be identified by name since it does not say so, and that claims satisfy the requirements of that rule if the claimants are easily and clearly identifiable. Their position is supported by a long list of awards of the Third Division. These include 9205, 9953, 10379, 10675, 10871, 10801 and 11214 as well as many others. It is significant that in cases where the phrase used in the instant claims (senior idle telegrapher, extra in preference) was used, all of the recent awards of the Third Division except one (10458) held that the claimant was easily and readily identifiable. In some of the awards cited by Carrier (especially 8840, 9848 and 10010) we would agree that the claimants were not easily and readily identifiable, but those cases are distinguishable from the present case where the designations are very specific.

Article V 1 (a) does not specifically say that the employee must be identified by name. While such a designation would be more precise when the language used does not expressly require it the matter is one of interpretation. This interpretation has been made by the Third Division awards, cited above, in favor of the Employees' position and we regard them as persuasive here. The identity of the claimant in each of claims in this docket can be readily ascertained by reference to Carrier's Extra Seniority Roster. We hold, therefore, that "senior idle telegrapher, extra in preference" meets the requirements of Article V 1 (a) and that the claims are properly before this Board for decision on the merits.

CLAIM NO. 1

This claim concerns a telephone conversation between the yard clerk at Anchorage and the dispatcher at DeQuincy on September 3, 1961, during the hours of the second shift telegrapher position, relative to the location of Train No. 362, a freight operating from DeQuincy to Anchorage, La. The Assistant Trainmaster at Anchorage was trying to contact No. 362 by radio to get its location. Unable to do so, he got the yard clerk at Anchorage to contact No. 362 through the TP telegrapher at Addis, La., who in turn contacted No. 362 and learned that it was leaving Livonia, a blind siding, and reported this to the yard clerk. Later, when the dispatcher at DeQuincy was talking with the yard clerk, the latter told the dispatcher what he had learned about No. 362. Employees contend that this was an OS of the train.

The conversation between the yard clerk and the dispatcher did not indicate the time No. 362 passed Livonia. In the absence of such information we do not think the message was specific enough to be classed as an "OS" or a train report. The claim must, therefore, be rejected.

CLAIM NO. 2

Employees charge that the yard clerk at Anchorage and dispatcher at DeQuincy, La., OSed Train No. 74 on November 2, 1961, when the yard clerk gave dispatcher the following message:

"No. 74 delivered to MP Yard 135 AM; Left MP Yard 145 AM with 60 cars.
Arrived Anchorage Yard 220 AM."

The facts appear to be as follows: No. 74 is an IC Train from New Orleans and terminates at North Baton Rouge. On arrival there MP cars are left on a

designated interchange track where they are picked up by an Anchorage yard engine and taken to Anchorage for connection with MP train 363 to Houston via DeQuincy. No. 74 is not carried on the train sheet of the dispatcher at DeQuincy and he has no control over it. However, the car distributor clerk at DeQuincy must know the number of cars delivered by the IC to the MP at North Baton Rouge, and the time of such delivery in order to figure the per diem rental. On the occasion in question at 5:49 AM the dispatcher at DeQuincy called the yard clerk at Anchorage to get the above car information for the car distributor clerk.

There was, in our judgment, no OSing of Train No. 74. The information obtained was not intended to and did not in anyway affect the movement of trains. The claim is without merit.

CLAIM NO. 3

This claim involves two separate incidents. In the first part Employees allege that the yard clerk at Anchorage OS'd train No. 362's departure from Anchorage Yard. The facts as to the occurrence are as follows: Train No. 362 comes from Houston via DeQuincy and terminates at Anchorage. When No. 362 arrives at Anchorage the dispatcher at DeQuincy no longer has control of it and makes no further notes on his train sheet concerning it. From the Anchorage Yard cars from No. 362 which are destined for New Orleans via the IC are taken by a MP switch engine to the North Baton Rouge Interchange. The yard movement here is the reverse of that in Claim 2. Again here the car distributor clerk at DeQuincy has to know (for his per diem car rental records) the number of cars being turned over to the IC and the time they are released. In this case the dispatcher at DeQuincy secured from the yard clerk at Anchorage the information as to the delivery time and number of cars given to the IC. The information was for the car distributor clerk and was not intended to be used by the dispatcher in connection with the movement of trains. We find, therefore, no OSing of trains and must deny this part of the claim.

In the second part of the claim, Employees allege that the yard clerk at Anchorage Yard transmitted a consist of train No. 393. The information furnished was that No. 393 had 96 loads and 34 empties, 1 empty for Kinder south and 1 empty for Kinder north.

It appears to be well settled that the transmission of the consist of a train is telegraphers' work. The question here is whether the message above was a consist. We think it was not. A consist is a train make-up by cars as to commodities and destination. A mere statement of the number of loaded cars and the number of empties cannot be considered a consist. In this connection we point out that in all the Special Board awards cited by Employees the messages held to be consists contained specific information as to commodities. We hold, therefore, that the information given by the yard clerk to the dispatcher did not constitute a consist. This part of the claim is without merit.

CLAIM NO. 4

Employees charge that the yardmaster at Anchorage Yard OSed Train No. 362 on December 15, 1961. On that date No. 362 was overdue at Anchorage and the dispatcher at DeQuincy called the yardmaster at Anchorage and asked whether he

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had heard anything from No. 362. The yardmaster advised the dispatcher that No. 362 was "coming around Cholpe Curve," which is just west of Anchorage. While Carrier argues that no time was given, the claim puts the time of the call at 10:32 PM which would mean that the train was at Cholpe Curve at that time. In our view this was a report of the arrival of a train at a particular location at a particular time which was important for the dispatcher to know. We hold it to be a report within the meaning of Rule 2 (c) of the Agreement and therefore sustain the claim.

CLAIM NO. 5

This claim charges that dispatcher obtained an OS on Train No. 72 on December 27, 1961, from the yard clerk at Anchorage. In all essential respects it is like Claim No. 2. The claim is denied for the reasons set forth above in connection with Claim 2.

FINDINGS: That in Claims 1, 2, 3 and 5 there was no violation of the Agreement.

That in Claim 4 Carrier violated the Agreement.

AWARD

Claims 1, 2, 3 and 5 are denied. Claim 4 is sustained.

SPECIAL BOARD OF ADJUSTMENT NO. 506

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

/s/ D. A. Bobo
D. A. Bobo - Employee Member

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