

Award No. 2803  
Docket No. 2652  
2-DL&W-EW-'58

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Livingston Smith when the award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYEES'  
DEPARTMENT, AFL-CIO**  
(Electrical Workers—Communication Department)

**THE DELAWARE, LACKAWANNA AND WESTERN  
RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

(a) That the current agreements were violated when the Carrier, on and subsequent to March 27, 1956, assigned the installation, re-pairing and maintenance of teletype machines at the following points:

140 Cedar Street, New York City, Port Morris, N. J., Bridge Sixty, Scranton, Pa., Binghamton, N. Y. and East Buffalo, N. Y., by contract to the Bell Telephone Company, which thereby damaged employes of the Electrical Workers' Craft (Communication Dept.) subject to the terms of said agreements.

(b) That, accordingly, the Carrier for the aforesaid work performed, in the amount of sixty-two hours and fifteen minutes, be ordered to compensate the employes at the following points at the straight time rate:

<b>Employee</b>	<b>Location</b>	<b>Compensation</b>	<b>Date</b>
John Donholt	Binghamton	6 hours	March 27, 1956
William Hathaway	140 Cedar St.	8 hours	March 27, 1956
John Frazer	140 Cedar St.	8 hours	April 28, 1956
C. Schuyler	140 Cedar St.	4 hours	April 28, 1956
R. F. Feigel	East Buffalo	6 hours	April 28, 1956
R. G. Colvin	Scran. Bridge Sixty	6 hours	May 1, 1956

**Port Morris**

Two Maintainers	4 hours each	May 3, 1956
One Maintainer	8¾ hours each	May 7, 1956
One Maintainer	3 hours each	May 9, 1956
One Maintainer	7 hours each	May 10, 1956
One Maintainer	7½ hours each	May 11, 1956

**EMPLOYEES' STATEMENT OF FACTS:** For the past twenty-five years or more, teletype machines have been in use on this property, by the carrier. Approximately eight years ago the carrier had installed new teletype machines at the points mentioned in claim, with the exception of Port Morris, N. J. The installation, maintenance and repairing of these teletype machines and all other work recognized as communication department work has always been done exclusively by the communication department maintainers. It is also a fact that the maintenance of teletype machines has been done by the maintainers in the communication department, even before the signing of the current agreement which was signed in the year 1935.

On March 27, 1956 and subsequent dates, management contracted to the Bell Telephone Company, the installation of teletype machines, also the maintenance and repairing of same at the points mentioned in the above claim. Prior to March 27, 1956, management had discussed informally with the general chairman concerning the contracting of work to the Bell Telephone Company, at which time the carrier was informed we could not sanction anyone but the employees covered by the current agreement to perform this work.

This dispute has been handled with the carrier up to and including the highest officer so designated by the carrier, with the result that he had declined to adjust it.

The agreement effective December 3, 1935, as it has been subsequently amended, is controlling.

**POSITION OF EMPLOYEES:** It is respectfully submitted on the basis of the foregoing statement of facts and the rule of the current agreement, applicable to them, that the carrier did damage the employees of the electrical workers communication maintenance craft, as claimed. These employees were also damaged in the violation of the carrier's contractual obligation to them and in support thereof. Attention is called to provisions of these aforesaid agreements, which for ready reference follow:

First:—Rule 51, captioned classification of work of the agreement, effective December 3, 1935, work belonging to telegraph, telephone maintainers and linemen reads as follows (Emphasis supplied):

"Telegraph and Telephone Maintainers' and Linemen's work shall consist of building, repairing and maintaining pole line and supports, wires, cables and conduit, the installation, inspection, maintenance, repair and renewal of inside wiring, switchboards, rheostats, motor generators, rectifiers and other utilization equipment for communication, fire protection and similar functions, dictaphones, electric clocks, teletype machines, bells and buzzers, battery and battery charging equipment used in connection therewith, and

Insofar as that part of the claim covering Port Morris is concerned, it is indefinite. The carrier is not in a position nor is it required to develop names of claimants.

"A claim for reparation must be sufficiently definite as to permit determination as to whom, if anyone, reparation is due. The Carrier is not bound to develop the claim for employees. \* \* \*"

**Award 7206—First Division**

"\* \* \* we do not propose to require the Carrier to search its records to develop claims of unidentified trainmen on unspecified dates."

**Award 11642—First Division**  
(Emphasis added)

"This Division has held that it is not proper to direct a carrier to search and evaluate records to make a claim for the proponents of one."

**Award 13296—First Division**  
(Emphasis added)

"\* \* \* it must be said that the claim, except as to the incident of February 26, 1945 should be and is rejected for uncertainty. If an award in favor of the organization were to be made as to this rejected portion of the claim, it would be difficult, if not impossible, of enforcement under legal processes prescribed and defined by the Railway Labor Act."

**Award 16577—First Division**  
(Emphasis added)

The courts agree with the principles expressed in the foregoing awards.

"The Act contemplates not merely general conclusions but precise and definite awards capable of enforcement not vague general outlines which must be filled in by the Courts." (Railroad Yardmasters vs. Indiana Harbor Belt R. Co., 70 Fed. Supp. 914)

The carrier denies that its employes were deprived of any work that was contractually their's.

The carrier denies each and every contention of the organization and the validity of every argument advanced by it at variance with the carrier's position and pleadings in this case.

**FINDINGS:** The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

Claims are here brought in behalf of named claimants account of the alleged improper assignment of work pertaining to the installation, repair and maintenance of teletype machines. It is asserted that this work specifically belongs to the employes covered by the effective agreement under and by virtue of both the rules and past practice on the property.

The record indicates that the teletype machines in question were placed on the carrier's property by the American Telephone and Telegraph Company for a short period of time on an experimental basis. It is apparent that the installation of the machines in question was on a "lease-use" basis, and that the terms of said agreement all installation and maintenance was restricted to that service supplied by the Telephone Company. It is further apparent that such machines and certain independent circuits were available to the carrier only on these terms.

That Western Union owns and maintains certain equipment on this property is admitted. A similar situation exists here. Telephone Company forces made repairs and adjustments only on the equipment owned by said company. The carrier did not own the machines. They were owned and could be maintained only by Telephone Company forces. We believe that on the basis of the particular and peculiar facts here, there exists a clear line of demarcation between the work contemplated as coming under the scope rule of the agreement, and that which the parties hereto have, by their past practice, considered as being excluded from the coverage thereof.

The claims lack merit.

#### AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 6th day of March, 1958.