

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**Third Division**

Paul Samuell, Referee

**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPHERS**

**THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY**

**DISPUTE.**—"Claim of the General Committee of the Order of Railroad Telegraphers on The Nashville, Chattanooga & St. Louis Railway that provisions of Article XXI of the current Telegraphers' Schedule Agreement apply to conductors and others in charge of motor-driven cars when working or moving on main line tracks on authority of Form 359, and that the agreement fully obligates the Carrier to observe the intent of the rule in the same manner and extent as in the use of every other form of train order."

**FINDINGS.**—The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that—

The carrier and the employees involved in this dispute are respectively carrier and employees 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. A hearing was had. The Third Division failed to agree upon an award because of a deadlock. Paul Samuell was selected as its Referee to sit with the Division as a member thereof and make an Award.

An Agreement bearing dates, revised rules February 1, 1925, revised rates December 1, 1927, is in effect between the parties.

The parties jointly certified to the following:

**STATEMENT OF FACTS.**—In April and May, 1931, conductors were assigned, at the request of the Western Union Telegraph Company, to look after their motor cars used in the reconstruction of their telegraph line and conductors were furnished the following information on Form 359:

May 7, 1931. Order #34. Motor Car 142. All Northbound trains wait at Murfreesboro until 7:55 a. m. L. S. P. Conductor Green. 7:14 a. m.

May 7, 1931. Order #40. Motor Car 117. All Southbound trains wait at Murfreesboro until 10:35 a. m. L. S. P. Conductor Green. 7:14 a. m.

May 7, 1931. Order #37. Motor Car 117. All Northbound trains wait at Christiana until 8:50 a. m. L. S. P. Conductor Green. 7:47 a. m.

May 7, 1931. Order #37. Motor Car 145. All Northbound trains wait at Christiana until 8:50 a. m. L. S. P. Conductor Medley. 7:39 a. m.

May 7, 1931. Order #32. Motor Car 145. All Southbound trains wait at Winstead until 8:01 a. m. L. S. P. Conductor Medley. 7:09 a. m.

May 7, 1931. Order #30. Motor Car 142. All Northbound trains wait at Murfreesboro until 7:45 a. m. L. S. P. Conductor Medley. 6:57 a. m.

April 27, 1931. Order #59. Motor Car 145. All Northbound trains wait at Lavergne until 3:10 p. m. L. S. P. Conductor Medley. 1:18 p. m.

May 8, 1931. Order #22. Motor Car 145. All Northbound trains wait at Christiana until 7:50 a. m. L. S. P. Conductor Medley. 7:09 a. m.

May 8, 1931. Order #22. Motor Cars 124 and 139. All Northbound trains wait at Christiana until 7:50 a. m. L. S. P. Conductors Green and Hessey. 6:57 a. m.

When these cards were issued to the conductor a train order Form 31 or 19 was placed through a telegrapher at a telegraph office for the trains involved and delivered to the trains by the telegrapher or they were annulled by dispatcher through telegrapher.

Form 359 is also used by Linemen, Section Foremen, and other employees in charge of motor cars in the same manner as conductors who were in charge of the Western Union cars used them.

That the employees assigned by the Railroad Company at the request of the Western Union Telegraph Company to look after their motor cars, and who in April and May, 1931, handled Forms 359 in question were taken from the conductors' seniority roster, were paid conductors' rates as provided for in the agreement in effect between the N. C. & St. L. Railroad and its employees represented by the Order of Railroad Conductors, and that such employees were during this period acting in capacity of conductors in charge of Western Union motor cars.

Article XXI of the Agreement reads as follows:

"(a) 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 telegrapher will be paid for the call and so notified by the Chief Dispatcher.

(b) At stations where there is no employee employed and an emergency telephone is maintained conductors will not be required to report to train dispatchers on the telephone until twenty (20) minutes after arrival at station and will not be required to take train orders or messages except in case of engine failure, wrecks, or other extreme emergency or when line is broken by act of Providence."

This Division is of the opinion that the train orders in question requiring trains to wait at a given point until a stated time and given to conductors in charge of motor cars on Form 359, authorized such motor cars to occupy the main track against such trains until such time had expired, and were in effect train orders; that no emergency such as outlined in paragraph (b) above quoted existed in the cases cited in the joint Statement of Facts.

#### AWARD

The claim of the General Committee of the Order of Railroad Telegraphers is sustained insofar as it applies to conductors in charge of motor-driven cars when working or moving on main line tracks on authority of Form 359, and to conductors only.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,  
*Secretary.*

Dated at Chicago, Illinois, this 27th day of January 1936.