

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE NEW YORK CENTRAL RAILROAD COMPANY
(Buffalo and East)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central Railroad, Buffalo and East, that

(a) the Carrier violated the rules of the Telegraphers' Agreement on the following dates: November 24 and December 10, 1947, when it permitted or required train service employees who are not under the Telegraphers' Agreement to "OS" (report trains) of which a record is made on the train dispatcher's sheet, and also to fulfill the duties of a Block Operator by use of telephone at Patterson, New York, at a time that the agent-telegrapher was available but not on duty, and

(b) in consequence thereof the Carrier shall now be required to pay "call" service (Rule 5 of the Telegraphers' Agreement) to the incumbent of the agent-telegrapher position at Patterson, on each occasion that he was not used.

EMPLOYES' STATEMENT OF FACTS: An agreement by and between the parties hereinafter referred to as the Telegraphers' Agreement, bearing effective date of January 1, 1940, is in evidence; copies thereof are on file with the National Railroad Adjustment Board.

Patterson, New York, is a one-man station employing an agent-telegrapher whose assigned hours during the winter months were 7:30 A. M. to 6:50 P. M. with one hour for lunch.

On the dates shown in the Statement of Claim at Patterson, the Carrier required and/or permitted train service employees who are not covered by the Telegraphers' Agreement to handle and perform work coming under the scope rule and train order rule of the Telegraphers' Agreement, such as Block Operator and Telephone Operator duties as well as the "OS" of trains, outside the regular hours of the agent-telegrapher.

The claimant, Mr. E. F. Spratt, was available for "call" service on the dates in question. He has a card in the station window for all to see, showing his place of residence and how he can be readily called at anytime of the day or night during a time that the station is closed. He has fully complied with Rule 854 of the Carrier's Operating rules in this respect.

The Organization in behalf of the Claimant filed with the Carrier claims for a "call" payment under Rule 5 of the Telegraphers' Agreement, for each of the Carrier's improper acts. The claim was denied.

OPINION OF BOARD: The Carrier maintained a one man station at Patterson, New York, employing an agent-telegrapher whose assigned hours were 7:30 A. M. to 6:50 P. M. daily except Sunday. On November 24 and December 10, 1947, it is alleged Carrier permitted train service employes to perform the duties of a block operator outside of the assigned hours of the agent-telegrapher.

For reasons stated in Award 4287 claim for "call" under Rule 5 of Agreement effective January 1, 1940, should be sustained for November 24 and December 10, 1947.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That claim will be sustained for November 24 and December 10, 1947.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 4th day of April, 1949.