

Award No. 6123

Docket No. TE-6000

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

MILWAUKEE-KANSAS CITY SOUTHERN JOINT AGENCY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Kansas City Southern Railway, that

1. The Carrier violated and continues to violate the terms of the agreement between the parties when, and because it required and/or permitted, and continues to require and/or permit an employe not subject to said agreement to handle train orders at 15th Street, Kansas City, Missouri; and
2. In consequence thereof the carrier shall compensate the senior idle employe under the agreement on the district in an amount equal to a day's pay of eight hours for each day that such violations are and have been permitted to exist.

EMPLOYES' STATEMENT OF FACTS: An Agreement bearing effective date of September 1, 1949, is in effect. 15th Street, Kansas City, Missouri is located at Mile Post 7.2 and West Wye Tower at Mile Post 5.3 on the main line, both within the Terminal of Kansas City, approximately two miles apart. West Wye Tower is a telegraph office where all southbound freight trains receive running orders before leaving Kansas City, and is a continuously operated office. 15th Street is located in an industrial area and is a point at which there is provided a telephone. It is from this point that Foremen of local yard engines handle train orders relayed to them through the operator at West Wye Tower.

A claim for a day's pay in accordance with the rules of the Agreement was instituted in behalf of the senior idle employe holding seniority and contractual rights to the telephonic service which the foremen perform, for each day, beginning March 14, 1950, on which the work in question was denied employees, and who were entitled under the Agreement to perform it. Carrier denied the claim.

agreement; the telegrapher then delivered this information to the engine foreman by telephone, in lieu of a personal trip by the engine foreman to the telegraph office.

This claim is an attempt by the Organization to secure a new rule by interpretation, one that is not in their schedule, to the effect that a telegrapher may not telephone information or line-up to a trainman. Line-ups are obtained from telegraphers, by section foremen and others by telephone, over the entire line; they are not obtained from dispatchers direct.

Claim should be denied, and this Division is respectfully requested to so find.

All data contained herein have been made known to representatives of the complainant organization by correspondence and in conference.

(Exhibits not reproduced).

OPINION OF BOARD: We have held that it is not a violation of the Telegraphers' Agreement for one not covered by the Agreement to use the telephone to obtain or receive line-ups or information from an operator covered by the Agreement.

With respect to train orders we note that Carrier's Operating Rules require (Rule 209), that "operators receiving train orders must write them in manifold during transmission" and (Rule 211) "personally deliver a copy to each person addressed". On April 16, 1947 the parties agreed that "no employe other than covered by the Telegraphers' Agreement and Train Dispatchers will be permitted to handle train orders" except in specified situations, none of which are applicable here.

We think that, under the Operating Rules, the receipt of train orders addressed to yard engines by a yard foreman over the telephone constitutes handling train orders and is a violation of the Agreement. Thus the claim should be sustained for days on which train orders addressed to yard engines were so received by the yard foreman and should be denied for other days involved in the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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 the Agreement was violated to the extent stated in the Opinion.

AWARD

Claim sustained to the extent stated in the Opinion and Findings:

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 6th day of March, 1953.