

Award No. 7402

Docket No. TE-7356

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

WESTERN MARYLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Western Maryland Railway, that:

1. Carrier violated the Agreement between the parties hereto, when on the 6th day of February 1954, it required and permitted Mr. Lear, a trainman, an employe not covered by the Telegraphers' Agreement to receive, copy and deliver Train Order No. 415 at Jerome, West Virginia.

2. Carrier violated the Agreement between the parties when on the 3rd day of March 1954, it required and permitted Mr. J. R. Light, a conductor, an employe not covered by Telegraphers' Agreement to receive, copy and deliver Train Order No. 404 at Jerome, West Virginia.

3. Carrier violated the Agreement between the parties when on the 5th day of March 1954, it required and permitted Mr. Powell, a trainman, an employe not covered by Telegraphers' Agreement, to receive, copy and deliver Train Order No. 410 at Jerome, West Virginia.

4. That Carrier shall be required to permit appropriate joint check of records, by representative of Employees, to determine violations occurring subsequent to January 15, 1954, at Jerome, West Virginia, due to train service employees handling train orders at this point.

5. That Carrier shall be required to compensate the senior idle telegrapher (extra employes in preference) for 8 hours, at minimum telegraphers' rate, on Hagertown Seniority District, for each and every day and date subsequent to January 15, 1954, (including but not limited to February 6; March 3rd and 5th, 1954), when employes of Carrier, not holding seniority under Telegraphers' Agreement for such seniority district, were required or permitted to receive, copy, deliver or otherwise handle train orders at Jerome, West Virginia.

rier have been presented to the Employees and made a part of the particular question in dispute.

(Exhibits not Reproduced.)

OPINION OF BOARD: On January 15, 1954, the Carrier abolished three positions of "Operator" at Jerome, West Virginia. These positions had provided around the clock train order and telegraphic service. Since this date the Carrier has required train service employees to use the telephone at Jerome to receive train orders. In each such case a telegrapher at another station has been used as an intermediary between the dispatcher and the train crews. Claims were filed for a day's pay for the senior idle employee covered by the Agreement, for each instance in which the copying of train orders at Jerome has been performed by those not covered by the Scope Rule of this Agreement.

Except the fact that there has been in existence at Jerome a position covered by the Parties' Agreement, this case involved essentially the same problem as that before us in Award 7401. The claim here is not for the restoration of the Operator positions at Jerome. It is only for a day's pay for one covered by the Scope Rule for each time a member of a train crew has received train orders by telephone at Jerome. In this the same principle is involved as that before us in Award 7401 and the answer must be the same.

It is within the Carrier's discretion to determine when a position should be abolished because there is not sufficient work to warrant its continuance. And, as we have just stated in the two preceding awards, the copying of train orders by train crews, where no telegraphers are stationed, has been the custom and the practice on this Carrier's property for many years. This Board should not disturb this well-established practice.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived hearing on this dispute; and

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;

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

That there has been no violation of the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 14th day of September, 1956.