

Award No. 8625

Docket No. TE-9984

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

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

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Delaware, Lackawanna and Western Railroad, that:

1. Carrier violated the Agreement between the parties when on January 3, 1957, it required or permitted train service employees not covered by said agreement to handle (receive, copy and deliver) train orders at Mount Pocono, Pa., (a closed office) in the absence of an emergency.
2. Carrier shall, because of the violation set forth above, compensate the senior idle telegrapher, extra in preference, a day's pay (\$16.69). The name of payee to be determined by a joint check of Carrier's records.
3. Carrier violated the agreement between the parties when it failed or refused to properly compensate Agent-Operator L. F. Learn, Pocono Summit, Pa., for train orders handled (receive, copy and deliver) by train service employees at a time when he was off duty but available for call.
4. Carrier shall, in addition to the call paid, pay L. F. Learn an additional call in accordance with the provisions of Articles 3 and 5 (a) of the Agreement.
5. Carrier's declination of the claim prior to conference was improper and in violation of the Railway Labor Act and Article V, paragraphs (a) and (b) of the August 21, 1954 Agreement, and therefore claim should be allowed as presented.

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

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;

That the dispute was certified to the Third Division of the Adjustment Board ex parte by the complainant party; and

That hearing thereon was waived by the parties and under date of December 5, 1958, the parties jointly addressed a formal communication to the Secretary of the Third Division requesting withdrawal of this case from further consideration by the Division, which request is hereby granted.

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 18th day of December, 1958.