

Award No. 10605

Docket No. TE-9167

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

David Dolnick, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Seaboard Air Line Railroad, that:

1. Carrier violated the Telegraphers' Agreement when on the 25th day of February, 1956, it caused, required or permitted Engineer Rich to handle (receive, copy and deliver) Train Order No. 14 at 4:26 A. M., addressed to C&E Train No. 85 at Bolling, North Carolina.

2. Carrier will be required to compensate Alice Langford, senior idle extra telegrapher, for a day's pay (8 hours) at the rate of \$1.878 per hour, for the violation aforesaid. Total \$15.02.

3. Carrier violated the Telegraphers' Agreement when on the 20th day of February, 1956, it caused, required or permitted Brakeman Speight to handle (receive, copy and deliver) train order No. 4 at 4:26 A. M., addressed to C&E Train No. 85 at Bolling, North Carolina.

4. Carrier violated the Telegraphers' Agreement when on the 21st day of February, 1956, it caused, required or permitted Brakeman Copeland to handle (receive, copy and deliver) Train Order No. 14 at 4:07 A. M., addressed to C&E Train No. 85 at Bolling, North Carolina.

5. Carrier will be required to compensate R. P. Hedgepeth, senior idle telegrapher on February 20 and 21, 1956, for two days, 8 hours per day, at the rate of \$1.878 per hour, account violations set forth in Paragraphs 3 and 4. Total \$30.04.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement entered into by and between the Seaboard Air Line Railroad Company, hereinafter referred to as Carrier or Management, and The Order of Railroad Telegraphers hereinafter referred to as Employees or Telegraphers. The agreement was effective October 1, 1944, and has been amended. The Agreement, as amended, is on file with this Board and is by reference included herein as though set out word for word in this submission.

The 14 cases mentioned in the above letter have been placed on a stand-by basis, however, the Organization has not indicated any desire to dispose of the numerous other claims on the same basis.

The handling of this dispute by the Organization in the manner recited above is clearly not in conformity with the spirit or intent of the Railway Labor Act as it does not allow for either prompt or orderly settlement of the dispute.

Therefore, without prejudice to the Carrier's primary position that the instant claims are without support of either agreement provisions or practice on the property, it is further the position of the Carrier that this claim and all similar subsequent claims progressed to the Adjustment Board should be dismissed as not being properly presented to the Board, for the reasons set out above. See Third Division Award 5445, etc.

Carrier affirmatively states that all data used herein has been discussed with or is well known by the General Chairman of the petitioning organization.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue in this claim is similar in every respect to the issue in Docket TE-9144 except that the train order was received, copied and delivered by a Brakeman instead of a Trainmaster. We have fully discussed the facts and applicable contract provisions in Docket TE-9144. No useful purpose will be served to repeat the reasons for the Board's ruling that the claim is not valid and that Award 10442 (Gray) is applicable.

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 the Carrier did not violate the Agreement.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of May 1962.