

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

D. E. LaBelle, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

CHICAGO GREAT WESTERN RAILWAY COMPANY

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

(1) Carrier violated the Agreement between the parties when on September 12, 1955 at Esmond, Illinois it required or permitted a Signal Maintainer (an employe not under the Agreement), to perform work belonging to the Agent-Telegrapher (an employe under the Agreement), at a time when said Agent-Telegrapher was off duty.

(2) Carrier shall be required to compensate Agent-Telegrapher R. R. Duell for a call.

EMPLOYES' STATEMENT OF FACTS: The Agreements between the parties are available to your Board and by this reference are made a part hereof.

Esmond, Illinois is a station located on the Eastern Division of the Carrier where there is one position under the Telegraphers' Agreement, that of Agent-Telegrapher, with assigned hours 8:45 P. M. to 5:45 A. M. (one hour for meal) and assigned rest days Saturdays and Sundays—position not filled on rest days. At the time cause for this claim arose, R. R. Duell was the incumbent of the position.

During his tour of duty, which started at 8:45 P. M. Friday, September 9, 1955, claimant Duell was instructed by the Wire Chief at Stockton, Illinois, to manipulate certain switches in the telephone circuits to make a "patch" between the train dispatcher's circuit, which had developed trouble, and another circuit which was free of trouble. A patch is a connection made between two circuits usually for the purpose of by-passing the portion of one circuit which is in trouble. After the patch was made, the train dispatcher inquired of claimant Duell if he would be at home on his rest days (Saturday and Sunday, September 11 and 12) in order to be available to remove the patch when the circuit was repaired. Duell advised that he would be available.

4. The testing of circuits for the purpose of locating trouble on wires is a necessary and inherent part of the maintenance job—Third Division Award 4880.

Carrier affirms that all data in support of its position has been presented to the other party and made a part of the particular question in dispute.

OPINION OF BOARD: It is Claimant's contention that on and prior to September 12, 1955, R. R. Duell Agent-Telegrapher at Esmond, Illinois, with assigned hours 8:45 P. M. to 5:45 A. M. and assigned rest days Saturday and Sundays—position not filled on rest days. On September 9, 1955, Claimant was instructed by Wire Chief at Stockton, Illinois, to manipulate certain switches in the telephone circuits to make a "patch" between the train dispatcher's circuit, which had developed trouble, and another circuit which was free from trouble. After the patch was made, the Chief Dispatcher asked if Claimant would be available on September 11 and 12, (his rest days) in order to be available to remove the patch and Claimant advised he would be available.

Claimant further contends that on September 12, a Signal Maintainer located and cleared the trouble on the Train Dispatcher's circuit and upon report to Wire Chief at Stockton, was instructed to go to Esmond and remove the patch. This was done by the Signal Maintainer.

Claimant has filed this claim to be compensated for a call. Claimant's claim is based upon the Scope Rule and his contention that the work of testing and patching of circuits such as involved here belongs to employes under the Telegraphers' Agreement and is customarily performed by them. He further contended that Carrier's operating rules, though not controlling, are indicative thereof. The pertinent part of Rule 745 and in Carrier's "Rules and Regulations of the Operating Department" reads as follows:

"Operators must understand how to test and patch wires in switchboard, as ordered, and prompt and careful attention must be given this work."

Carrier denies that testing and patching of wires has ever been work which accrued exclusively to employes covered by the Telegraphers' Agreement. That Wire Chiefs, Telegraphers and Agent-Telegraphers do at many locations participate in such duties. That Telegraph and Signal Department, (maintainers, etc.) must test and patch wires in connection with repair and maintenance of communication lines, which is the usual duty of such employes. It is the claim of Carrier that the work performed by the maintainer at Esmond was for the purpose of determining the general location of the trouble on the communication lines so he could proceed to that location and repair the trouble.

The Carrier claims that wire trouble had developed between Stockton and Esmond, requiring the patch at Esmond and further trouble developed at other stations. The locations of the various stations are here indicated:

"West	_____	East
Galena Jct.	Stockton Byron Esmond Sycamore	St. Charles"

Carrier further states that:

"Subsequently, additional wire trouble developed west of Stockton and east of Sycamore, with the result that when maintainers

(one headquartered at Stockton and the other at Sycamore) reported for duty Monday, September 12, 1955, the dispatcher's wire was patched as follows:

1. Between Galena Jct. and Stockton
2. Between Stockton and Esmond
3. Between Sycamore and St. Charles

Stockton maintainer went west out of Stockton to locate trouble and Sycamore maintainer was dispatched westward to locate the trouble between Esmond and Stockton. The latter repaired a break in the line in the vicinity of Esmond and then went into the station and removed the patch and made a test to determine if the trouble had been corrected.

The line still failed to function properly; however, test developed that the wire was O.K. between Esmond and Byron, whereupon the maintainer requested the Agent-Telegrapher at Byron to patch the line at that point making the patch between Stockton and Byron. He then proceeded to Byron, made a second test and located another break a short distance west thereof. After making repairs he returned to Byron, made a third test and found that the line was functioning properly between Stockton and Sycamore. The maintainer then proceeded eastward to locate and repair the wire trouble between Sycamore and St. Charles."

We agree with the statement set forth in Award No. 3524, wherein it was stated:

"... The Carrier contends that testing, patching and balancing do not belong exclusively to the telegraphers. In this respect, we are of the opinion that testing, patching and balancing is work belonging exclusively to the telegraphers when it is incidental to and done in connection with the operation of lines, either telegraph or telephone, in performing work belonging to telegraphers under their Agreement. On the other hand, such work is not that of the telegrapher when done by Telegraph and Signal Maintainers incidental and in connection with the maintenance of lines."

This Award was quoted with approval in Award No. 4880, wherein it was stated:

"Award No. 3524, in laying out certain general rules does set forth a distinction that is logical and practicable:

'On the other hand, such work is not that of the telegrapher when done by Telegraph and Signal Maintainers incidental to and in connection with the maintenance of lines. With these general rules in mind, we will consider the particular facts that brought about this dispute.'

"In the instant case the Signal Maintainer was instructed to repair the wires. The testing of circuits for the purpose of locating trouble on wires is a necessary and inherent part of the maintenance job. The testing work done here comes clearly within the distinction made in Award No. 3524 because it was 'incidental to and

in connection with the maintenance of lines.' As a secondary consideration, the evidence is that for many years Signal-Maintainers have done patching and testing 'incidental to and in connection with the maintenance of telephone and telegraphic circuits, whether inside or outside of telegraph offices.' "

In the instant case, the Signal Maintainer was instructed to repair the wires, where wire trouble had developed. The work he did for the purpose of locating and repairing the wires, including the removal of the patch, in our opinion was a necessary and inherent part of the maintenance job.

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 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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of May 1962.

DISSENT TO AWARD 10624, DOCKET TE-9170

The record, when considered in view of the immutable facts of telephone circuit operation, maintenance and repair, as it must be to reach a proper decision, clearly shows that removal of the patch at Esmond was not for the purpose of locating trouble, but had as its sole purpose restoration of normal operation of the circuits involved.

All of the trouble, at three separate points, had previously been located and patched. Furthermore, a patch is not a means of locating wire trouble. It is a method of providing a workable circuit after trouble has been located by appropriate tests.

Removal of the patch at Esmond was incidental to operation of the lines, and thus work accruing to telegraphers as clearly set out in the awards cited with approval by the majority: 3524 and 4880. Failure to apply that principle to the facts of this case has resulted in an erroneous award, and I dissent.

J. W. WHITEHOUSE
Labor Member