

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Roy R. Ray, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Northern Pacific Railroad, that:

(1) Carrier violated agreement when on June 28, 1956, it caused, required or permitted a section foreman not covered by Telegraphers' Agreement to handle (receive and copy) train lineups by the use of the telephone at Perma, Montana.

(2) Carrier shall compensate K. E. Branstetter, agent-telegrapher, Perma, Montana, for one call (two hours at time and one-half rate) for violation as above set out.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement between the Northern Pacific Railway Company, hereinafter referred to as Carrier, or Management, and The Order of Railroad Telegraphers, hereinafter referred to as Employees or Telegraphers. The dispute involved herein was handled on the property in the usual manner through the highest officer designated by Management to handle such disputes and failed of adjustment. Since the dispute involves interpretation of the collective bargaining agreement it is, under the Railway Labor Act, as amended, properly submitted to this board for award.

On June 27, 1956, Mr. Archie G. Erskine, Roadmaster, located at Missoula, Montana, issued instructions to Mr. R. R. Hagen, Section Foreman at Perma, Montana, as follows:

"R. R. Hagen -- Foreman Sec 54 Perma

Missoula 6-27-56

When you require a train line-up outside of the regularly assigned hours of the Agent-Telegrapher at Perma, you will (so long as the PBX Operator is on duty at Missoula) call the open station at Paradise and ask them to furnish you with a line-up, which you will of course copy and repeat in the usual manner. In the event Paradise

4. The Telegraphers' Agreement effective April 1, 1956 was not violated when the section foreman called the telegrapher at Paradise on June 28, 1956 for the purpose of securing a train line-up.
5. Notwithstanding the evidence in this docket, should this Division find that calling the telegrapher at Paradise on June 28, 1956 constituted the removal of work from the scope of the Telegraphers' Agreement effective April 1, 1956, the measure of damages is the amount of work measured in terms of hours removed from the scope of the Telegraphers' Agreement computed at straight time rate.

This claim should be denied in its entirety.

All data in support of the Carrier's position in connection with this claim has been presented to the duly authorized representative of the Employees, and is made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant, K. E. Branstetter, was an Agent-Telegrapher at Perma, Montana when on June 28, 1956 a section foreman, through the use of a telephone, obtained and copied a train lineup from a telegrapher in another city. The lineup was obtained at a time when Claimant was available for this work. Claimant asserts that this work belonged to him and requests two hours pay at time and one-half rate.

The question presented by the claim is whether copying train lineups is work reserved exclusively to telegraph service employees. This point is no longer an open one, having been settled in Award 9998, rendered while the present claim was pending. That case (Docket TE-8689), a dispute between the same parties, involved (according to Carrier's submission here) precisely the same issue as the present case. In fact Carrier, in its submission, made essentially the same arguments and attached the same exhibits used in the present case. The Board, relying upon earlier Awards 7344 and 7345 held that this work belonged to the telegraphers. In Docket TE-8689 Carrier had urged that the earlier Awards were distinguishable on the ground that in those cases the lineups were secured direct from the dispatcher while in TE-8689 the lineup was secured from a telegrapher at another station. This contention was specifically rejected, the Board holding that violation arose from receiving the lineup and that the source from which it was obtained made no difference.

In the interest of stability of decision the Board holds that Award 9998 involving the same issue between the same parties is controlling here.

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of October 1962.