

Award No. 10915

Docket No. TE-9462

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert O. Boyd, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

LEHIGH VALLEY RAILROAD COMPANY

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

1. Carrier violated Agreement between the parties hereto when on the 19th day of July, 1956, it caused, required or permitted Section Foreman Baylor, driver of track car 7341, to handle (receive, copy and deliver) Train Order No. 32 at Van Etten. Mr. Baylor is not covered by the Telegraphers' Agreement. The train order involved was issued by the Buffalo, New York, Train Dispatcher by telephone directly to Section Foreman Baylor at Van Etten.

2. Carrier shall be required to compensate the senior idle telegraph service employe of the Seneca District, extra in preference, for eight hours at minimum telegrapher (telephoner) rate for such district for the violation as above set forth.

3. Carrier shall be required to compensate the senior idle telegraph service employe of the Seneca District, extra in preference, for 8 hours at minimum telegrapher (telephoner) rate for such district, for each day subsequent to July 19, 1956, on which such violations occurred at Van Etten, New York. The Carrier will be required to permit joint check of its records for the purpose of determining subsequent violations and for the purpose of ascertaining the names of employes entitled to receive such compensation for each date of violation.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement between Lehigh Valley Railroad Company, hereinafter referred to as Carrier or Management and The Order of Railroad Telegraphers, hereinafter referred to as Employes or Telegraphers. The Agreement was effective on the 1st day of February, 1948. The Agreement is on file with this Division and is, by reference, made a part of this submission as though set herein word for word.

The dispute submitted herein was handled on the property, in the usual manner, through the highest officer designated by Carrier to handle such disputes and failed of adjustment. The dispute involves interpretation of the

sion that the rules now in existence and effect do not prohibit; hence this Division having no authority to sustain claims by writing new rules for the parties, all claims herein should be denied.

The facts presented in this submission were made a matter of discussion with the Committee in conference on the property.

OPINION OF BOARD: In this submission it is claimed that the Carrier violated the Agreement when a section foreman, an employe not under the Telegraphers' Agreement, handled a train order at a point where no telegrapher was employed. The Carrier denies any violation of the Agreement.

The issue thus raised, in several different aspects but dealing with the same rules on this property, has been before this Division a number of times. See Awards 8146, 8540, 9999, 10060, 10061 and 10863.

When the Division has previously considered and disposed of a dispute involving the same parties, the same rule and similar facts presenting the same issue as is now before it, the prior decision or decisions should control. Any other standard would lead to chaos.

The issue involved in this claim has heretofore been determined adverse to the contention of the Claimant (see Awards listed above). In the absence of any showing that such awards are patently erroneous (and no such showing was made) we must follow them and find that there was no violation of the Agreement as alleged. The claims will, therefore, be denied.

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 Employes involved in this dispute are respectively Carrier and Employes 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 20th day of November, 1962.