

Award No. 10943

Docket No. TE-9860

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(CHESAPEAKE DISTRICT)**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Chesapeake and Ohio Railway, that:

1. (a) Carrier violated the Agreement between the parties when it required or permitted employees not covered by the Agreement to transmit train reports ("OS") and copy lineups at Hitchins, Kentucky, at a time when the operator was off duty but available on May 16-25-28-29, June 1-5-6-7, July 9, 1956.

(b) Carrier shall compensate the occupant of the Operator's position at Hitchins in the amount of a minimum call on each of the dates listed in paragraph 1(a) above.

2. (a) Carrier violated the Agreement between the parties when it required or permitted employees not covered by the Agreement to transmit train reports ("OS") and copy lineups at Morehead, Kentucky, at a time when the operator was off duty but available on May 16-23-25, June 22-27-29, July 3-5-6-9, 1956.

(b) Carrier shall compensate the occupant of the Operator's position at Morehead in the amount of a minimum call on each of the dates listed in paragraph 2(a) above.

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

Hitchins, Kentucky, and Morehead, Kentucky are stations located on the Carrier's Lexington Subdivision. Each station has one position under the Telegraphers' Agreement with assigned hours 9:30 A. M. to 6:30 P. M. (one hour meal period).

Plainly, what is involved in this respect has been involved in the handling of motor car line-ups all down through the years, and is not new or novel to the situation. It is obvious that the same condition had to obtain at the time all of the five prior awards on C&O motor car line-ups were issued by the Third Division, so that the contention in the instant case on this basis serves only as an attempt to re-try the whole motor car line-up situation in the hope of overturning Awards 1145, 5582, 5583, 5584, and 5585.

The contention in this case is without merit, as shown by the Carrier's evidence, and the claim should be denied in its entirety.

All data contained herein has been discussed in conference or by correspondence with the employe representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: This dispute is between The Order of Railroad Telegraphers and The Chesapeake and Ohio Railway Company.

On the dates listed in the Statement of Claim, a track motor car operator called for a line-up. Before the train dispatcher would authorize the issuance of the line-up, he would ask if a certain train had passed. The Organization contends that the reporting of trains by a regular "OS" station, at times when the operator is not on duty constitutes a violation of the Scope Rule of the Agreement.

This dispute is the same as in Award 1145 with one exception. That exception is the operator of a motor car stating if a train had passed. This is not an "OS". From the record, we believe that the only purpose of knowing if the train had passed was to authorize the issuance of a line-up. We find no evidence that the information was made a matter of record or that the information was used to control the operation of any train.

This case is not in point with Award 10823 and that line of cases. Therein the Dispatcher was using the information for the operation of trains.

For the foregoing reasons, we believe the Agreement was not violated.

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 5th day of December 1962.