

**Award No. 10978**  
**Docket No. TE-9896**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**  
**(Supplemental)**

**Preston J. Moore, Referee**

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**PARTIES TO DISPUTE:**

**THE ORDER OF RAILROAD TELEGRAPERS**

**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. Carrier violated the agreement between the parties when on September 24 and October 1, 1956 it required or permitted employe not covered by the scope of said agreement to perform the work of a block operator at Levisa Junction, Kentucky, at a time when the telegrapher was off duty.
2. Carrier shall now compensate H. W. Damron in the amount of a minimum call payment on each date the violation occurred.

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

Levisa Junction, Kentucky is a station on the Carrier's Big Sandy Subdivision. It is 3.3 miles east of Shelby, Kentucky which is a central point of operation for movements in the coal fields in this area. Continuous communication service is in effect at Shelby; there is one position under the agreement at Levisa Junction, with assigned hours of 11:00 P. M. to 8:00 A. M. (one hour meal period). H. W. Damron is the regularly assigned occupant of this position.

Levisa Junction is a junction point where trains leave the main line to go into Coal Field territory. On September 24, 1956, Extra 6134 East was authorized by train order to move over the Levisa Subdivision (branch main track) having exclusive right of track over all trains on that subdivision and was cleared at Shelby with a clearance card and train order, and in addition a message reading:

"No trains on Levisa Sub Divn. Block is clear. Clear yourself at Levisa."

rules of the 'Telegraphers' Agreement have been violated, so that the claim should be denied in its entirety.

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All data contained in this submission have been discussed in conference or by correspondence with the Employee Representatives.

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

Levisa Junction is a point where trains leave the main line to go into Coal Field territory. On September 24, 1956, Extra 6134 East was authorized by train order to move over the Levisa Subdivision and was cleared at Shelby with a clearance card and a train order and in addition a message reading:

"No trains on Levisa Sub Divn. Block is clear. Clear yourself at Levisa."

Upon arrival at Levisa junction, the conductor telephoned the operator at Shelby and reported his train clear. The operator called the Dispatcher at Ashland and gave him the information. The Dispatcher made the proper entry on his time sheet.

Under the facts at hand we believe this constitutes OSing of a train. We believe this information was a matter of record and used to control the movement of trains. And under Awards 10356 and 10699 we find the work belongs to the Organization. The Claimant is entitled to a minimum call payment on September 24 and October 1, 1956.

This opinion deals only with this property and is not to be construed as authority on other properties.

For the foregoing reasons we believe the Agreement was 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 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

Part 1 sustained.

Part 2 sustained as set forth in opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1962.