

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE DELAWARE AND HUDSON RAILROAD CORPORATION

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Delaware and Hudson Railroad, that:

1. Carrier violated the Telegraphers' Agreement when, on December 20, 1956, it caused, required or permitted Conductor C. T. Seguin, Extra 4104 South, to handle (receive, copy and deliver) 19 train order No. 16 at Putnam, New York.

2. Carrier shall now compensate Telegrapher C. A. Sleight, senior available telegrapher on the seniority district for one day's pay at the minimum telegrapher's rate on the Champlain Division.

3. Carrier violated the Telegraphers' Agreement when, on December 20, 1956, it caused, required or permitted train service employe Molastro, Extra 4060 South, to handle (receive, copy and deliver) 19 train order No. 4 at Bluff Point, New York.

4. Carrier shall now compensate O. C. Ladue, senior available telegrapher on the seniority district for one day's pay at the minimum telegrapher's rate on the Champlain Division.

5. Carrier violated the Telegraphers' Agreement when, on December 30, 1956, it caused, required or permitted train service employe Valasco, Extra 4072 South, to handle (receive, copy and deliver) 19 train order No. 2 at Bluff Point, New York.

6. Carrier shall now compensate E. R. Hayes, senior available telegrapher on the seniority district for one day's pay at the minimum telegrapher's rate on the Champlain Division.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement between The Delaware and Hudson Railroad Corporation, hereinafter referred to as Carrier or Management, and The

duty in excess of two (2) hours, time and one-half will be allowed on the actual minute basis."

It is the Carrier's position that claim should be denied account claimants not available to perform the service required, and long-established practice, without claim or protest, of other than telegraphers copying train orders at points where telegraphers were not employed or on duty.

The claim is not supported by agreement rules and practices thereunder and carrier respectfully requests that it be denied.

Management affirmatively states that all matters referred to in the foregoing have been discussed with the committee and made part of the particular question in dispute.

(Exhibits not reproduced).

OPINION OF BOARD: This is a dispute between The Order of Railroad Telegraphers and The Delaware and Hudson Railroad Corporation.

There are three separate parts to the claim. Case No. 1 involves a train order copied by Conductor Seguin. Case No. 2 involves a train order copied by Trainman Molastro and delivered to the conductor and engineer. Case No. 3 involves a train order copied by Train Service Employee Valasco.

The Employees contend that under the Scope Rule this work belongs to them and cannot be assigned to another craft.

Awards 7955, 9204, 9262, 10432 and 10912 are between the same parties that are involved in this dispute. The issue involved in the present dispute has been settled by the principles established by the above cited awards. We concur with the opinions expressed therein and believe those decisions to be controlling in the present dispute.

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

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 27th day of February, 1963.