

Award No. 11833
Docket No. TE-9751

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, 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 Railway, that:

1. Carrier violated Agreement between the parties hereto when on July 3, 1956, it caused, required or permitted Signal Maintainer Drake to receive (by use of telephone), train lineup No. 2 at Dixon, Montana.
2. Carrier violated Agreement when on July 4, 1956 it caused required or permitted Section Foreman MacDonald to receive and copy (by use of telephone), train lineup No. 2 at Dixon, Montana.
3. Carrier violated Agreement between the parties hereto when on August 4, 1956 it caused, required or permitted Signal Maintainer Drake to receive (by use of telephone), train lineup No. 2 and Line-man Christianson to copy train line up at Dixon, Montana.
4. Carrier violated Agreement when on June 30; July 4, 7, 14, 21, 28; August 4, 11, 18, 25, 1956, it caused, required or permitted Track Supervisor Tietz to copy train lineups (by use of telephone) Nos. 6, 5, 5, 5, 9, 6, and 3 at Bonita, Nimrod and Bonner, Montana.
5. Carrier violated Agreement when on October 6, 1956, it caused, required or permitted Track Supervisor Tietz to copy train lineup No. 4 (by use of telephone) at Willis, Montana.
6. Carrier violated Agreement when on December 22, 1956, it caused, required or permitted Track Supervisor Lechner to receive and copy (by use of telephone) train lineup No. 107 at Arlee, Montana.
7. Carrier violated Agreement when on November 3, 1956 it caused, required or permitted Track Supervisor Barber to receive and copy (by use of telephone) train lineup No. 112 at Rivulet, Montana.
8. Carrier violated Agreement when on October 3, 1956 it

caused, required or permitted Trackmen Gander and Hagen to receive and copy (by use of telephone) train lineups Nos. 2 and 5 at Clinton, Montana.

9. Carrier violated Agreement between the parties hereto when on October 4, 1956 it caused, required or permitted Trackmen Hansen, Bovie, Reardon, Gander and Hagen to receive and copy (by use of telephone) train lineup No. 3 at Clinton, Montana, and Trackman Hagen, train lineup No. 6 at Clinton, Montana.

10. Carrier violated Agreement between the parties when on October 10, 1956, it caused, required or permitted Trackmen Hagen and Gander to receive and copy (by use of telephone) train lineup No. 2 at Clinton, Montana, and Trackman Tietz to copy train lineup No. 4 at Clinton, Montana.

11. Carrier violated Agreement when on October 11, 1956, it caused, required or permitted Trackmen Hagen and Gander to receive and copy (by use of telephone) train lineup No. 3 at Clinton, Montana, and Trackman Tietz to receive and copy (by use of telephone) train lineup No. 5 at Bonita, Montana.

12. Carrier violated Agreement when on October 17, 1956, it caused, required or permitted Trackmen Wallstead and Gander to receive and copy (by use of telephone) train lineup No. 2 at Clinton, Montana, and Trackman Gander to receive and copy train lineup No. 4 at Clinton, Montana.

13. Carrier violated Agreement when on October 18, 1956, it caused, required or permitted Section Foreman to receive and copy (by use of telephone) train lineup No. 3 at Clinton, Montana, and Trackman Wallstead to receive and copy train lineup No. 5 at Clinton, Montana.

14. Carrier violated Agreement between the parties when on October 24, 25 and 31; November 1, 1956, it caused, required or permitted Trackmen to receive and copy (by use of telephone) train lineups Nos. 2, 4, 3, 5, 2, 4, 3, 5 at Drummond and Bonner, Montana.

15. Carrier violated Agreement when on November 7, 14, 15, 1956, it caused, required or permitted Trackmen to receive and copy (by use of telephone) train lineups Nos. 1, 5, 1, 5, 2 and 6 at Drummond and Bonner, Montana.

16. Carrier violated Agreement when on October 25, and November 1, 1956, it caused, required or permitted Trackmen Tietz and Gander to receive and copy (by use of telephone) train lineups Nos. 5 and 5 at Bonita, Montana.

17. Carrier violated Agreement between the parties hereto when on October 16, 17, 23, 24, 30 and 31, 1956, it caused, required or permitted Trackmen at Clinton, Bonita, Nimrod and Bearmouth to receive and copy (by use of the telephone) train lineups Nos. 4, 4, 4, 4, 5 and 4.

18. Carrier violated Agreement when on November 27, 28 and December 4, 1956, it caused, required or permitted Trackmen Bovey

and Reardon to receive and copy (by use of telephone) train lineups Nos. 202 and 203 at Bearmouth, Montana.

19. Carrier violated Agreement between the parties hereto when on September 29, 1956, it caused, required or permitted Track Supervisor Tietz to receive and copy (by use of telephone) train lineup No. 6 at Clinton, Montana.

20. Carrier violated Agreement between the parties hereto when on October 19, 26 and November 2, 1956, it caused, required or permitted Trackmen Smith and Wallstead to receive and copy (by use of telephone) train lineup No. 5 at Clinton, Montana; train lineup No. 6 at Clinton, Montana and train lineup No. 6 at Clinton, Montana.

21. Carrier shall be required to compensate J. E. Taplin, Agent-Telegrapher, Dixon, Montana, for one call on each of the three dates (July 3, 4, August 4, 1956) as set forth in paragraphs 1, 2 and 3, Statement of Claim.

22. Carrier shall be required to compensate O. E. Murray, Agent-Telegrapher, Bonner, Montana, one call for each violation occurring as set forth in paragraphs 4 and 5, Statement of Claim (June 30; July 4, 7, 14, 21, 28; August 4, 11, 18, 25; October 6, 1956—one call each date).

23. Carrier shall be required to compensate C. A. Blakeslee, Agent-Telegrapher, Arlee, Montana, for one call for violation occurring as set forth in paragraph 6, Statement of Claim (December 22, 1956).

24. Carrier shall be required to compensate H. E. Taplin, Agent-Telegrapher, Rivulet, Montana, for one call for violation occurring as set forth in paragraph 7 (November 3, 1956—one call).

25. Carrier shall compensate E. M. Murray, Telegrapher, Missoula, Montana, for one day (eight hours) for each violation as set forth in paragraphs 8, 9, 10, 11, 12, 13, 14 and 15, Statement of Claim (October 3, 4, 10, 11, 17, 18, 24, 25, 31; November 1, 7, 14, 15, 1956).

26. Carrier shall compensate J. S. Woods, Telegrapher, Missoula, Montana, for one day (eight hours) for each day of violation as set forth in paragraph 16, Statement of Claim (October 25; November 1, 1956).

27. Carrier shall compensate G. A. Martel, Telegrapher, Missoula, Montana, for one day (eight hours) for each day of violation as set forth in paragraphs 17 and 18, Statement of Claim (October 16, 17, 23, 24, 30, 31, 1956).

28. Carrier shall compensate O. E. Murray for one day (eight hours) for violation occurring on September 29, 1956, as set forth in paragraph 19, Statement of Claim.

29. Carrier shall compensate Mrs. B. J. Blakeslee, Operator, Missoula, Montana, for one day (eight hours) for each day of viola-

tion, October 19, 26 and November 2, 1956, as set forth in paragraph 20, Statement of Claim.

EMPLOYEES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement entered into by and between 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 Agreement is on file with this Division and is, by reference, made a part of this submission as though set out herein word for word.

The disputes submitted herein were handled separately on the property in the usual manner through the highest officer designated by Management to handle such disputes and failed of adjustment. The disputes are, under the provisions of the Railway Labor Act as amended, submitted to this Division for award. The twenty separate disputes submitted herein involve the same substantive claim. It is the position of Employees that the Board has determined the substantive claim in Awards 7344 and 7345, and fixed the quantum of compensation to be allowed for violations as set forth in most of the disputes. We shall further discuss these Awards in the Position of Employees.

The diversion of work involved is that of copying train lineups by Section Foremen, Signal Maintainers and other motor car operators at Dixon, Bonner, Arlee, Rivulet, Clinton and Bearmouth, Montana on various dates as hereinafter set forth. We shall refer to the separate disputes by case number, corresponding to the paragraph number of the Statement of Claim.

CASE NO. 1

(Paragraphs 1 & 21, Statement of Claim)

J. E. Taplin, the claimant as set forth in paragraph 21 of the Statement of Claim, was at all times hereinafter mentioned the regular assigned agent-telegrapher at Dixon, Montana. The regular assigned hours are 8:00 A. M. to 5:00 P. M. with one hour for meal. Mr. Taplin is the only employee at this point covered by the Telegraphers' Agreement. The assigned work days of the position of agent-telegrapher at Dixon are Monday through Friday and assigned rest days are Saturday and Sunday of each week.

July 3, 1956 was on a Tuesday and a regular assigned work day of the claimant. At 5:44 A. M., Mr. Drake, Signal Maintainer, copied train lineup No. 2 (O.R.T. Exhibit 1), at Dixon. Mr. Drake used the telephone and copied the train lineup from operator then on duty at Paradise. The claimant was not on duty at the time the lineup was copied but was subject to call and was available for service.

Claim was filed for a two hour call as set forth in O.R.T. Exhibit 2. The claim was denied by Chief Dispatcher Gammill (O.R.T. Exhibit 3). Mr. Gammill stated"

"This claim is not sustained by agreement rules therefore is declined."

Thereupon, Mr. G. A. Martel, Local Chairman, presented formal claim to Mr. Gammill for the call as set forth in Employees' Exhibit 4. It was pointed out by Mr. Martel that Award 7344 of this Division, involving the same parties and the same rules, sustained Employees' position.

stations when working at a station where a telegrapher was employed but not on duty or when working at a blind siding; and that this traditional practice has not been abrogated or modified by the Telegraphers' Agreement effective April 1, 1956. The Carrier has also shown that the types of claims presented can only be construed as a recognition that the Employees themselves are gravely in doubt about the soundness of their theory of these claims. Accordingly, 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: The issues in this case have been decided in precedent awards involving the same parties and same Agreement rules. Awards Nos. 7344, 7345, 9998, 10835, 11228, 11399, 11400, 11717, 11718 and 11719. The cited Awards, for the reasons stated in the Opinions, are authoritative precedents supporting a finding that Carrier violated the Agreement as alleged in the Claim.

We will sustain the Claim; but in conformity with Award No. 11718, reparation for each violation shall be as provided for in Rule 51 of the Agreement except in those instances of violation occurring on July 4, 1956, a holiday, as to which Rule 55 shall apply.

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 Carrier violated the Agreement.

AWARD

Claim sustained with reparation as prescribed in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November 1963.