

Award No. 12153
Docket No. TE-10267

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Kieran P. O'Gallagher, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Southern Railway System, that:

1. Carrier violated the Scope Rule (Rule 1) of the Telegraphers' Agreement when on December 2, 1956, it required or permitted Conductor Bob Wheeler, Train No. 45, an employe not covered by the Telegraphers' Agreement, to handle (receive, copy and deliver) by telephone, train order No. 599 at Rader, Tennessee.

2. Carrier shall compensate W. R. Ward, the nearest available telegrapher on Knoxville Division (there were no extra telegraphers available on this date), December 2, 1956, for one day (eight hours) at the rate of \$1.98 per hour (minimum pro-rata telegrapher rate on the Knoxville Division) for the violation aforesaid.

EMPLOYEES' STATEMENT OF FACTS: At Rader, Tennessee, until the installation of the automatic block signals, this Carrier maintained a 24-hour train order office. The positions around-the-clock during these years were filled from the telegraphers' ranks. The occupants of the positions performed all the communication work in the handling of messages, orders and reports of record, as well as the station work at the station, during their assigned hours.

On the 2nd of December, 1956, Train No. 45 arrived at Rader, Tennessee and conductor Beeler made contact with the train dispatcher by use of the telephone. The train dispatcher immediately dictated Train Order No. 599, which read as follows:

FORM 21

FORM 21

SOUTHERN RAILWAY SYSTEM

Knoxville, Tennessee

Order No. 599

The Board, being without authority under the law to establish a make-work scheme or grant new rules or modify existing rules such as here demanded by the ORT, has no alternative but to hold that the effective Telegraphers' Agreement was not violated and make a denial award.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same in all material respects as in Docket No. TE-9988, Award No. 12150. We adopt the opinion therein as determinative of the issues in this case.

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 29th day of January 1964.