

Award No. 12164
Docket No. TE-10430

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 that:

1. Carrier violated the scope, seniority and other rules of the Telegraphers' Agreement when on March 11, 1957 it caused, required or permitted Conductor W. D. Williams, an employe not covered by the Telegraphers' Agreement to handle (receive, record and deliver) Train Order No. 73 at Buford, Georgia.

2. The Carrier shall compensate Mrs. T. W. Moorhead, the senior idle employe under the Telegraphers' and Seniority Agreement, Charlotte Division, for one day's pay (eight hours) at the average prevailing rate for such employe on this Division. Further, the Carrier shall consider this as formal claim for the above described incident and for each subsequent similar incident occurring on the Seniority District (Charlotte Division) for the senior employe idle on the dates of such occurrence and otherwise entitled to the work, shall be paid the equivalent of one day's pay.

EMPLOYES' STATEMENT OF FACTS: On or about 8:40 A. M. Conductor of Train No. 72, W. D. Williams, by use of a telephone located at Buford, Georgia contacted the trick train dispatcher and requested the use of the main lien track No. 1 between Sugar Hill and Walters, Georgia. The trick train dispatcher then issued the following train order:

"Greenville, SC March 11, 1957

Order No. 73
TO: C&E No. 72 at Buford, Ga.
Use track number one between Sugar Hill and Walters until
10:15 A. M.

/s/ JFA, Chief Dispatcher"

Conductor Williams repeated the above quoted order and received a complete from the dispatcher at 8:43 A. M.

Claim being barred should be dismissed by the Board for want of jurisdiction. If, despite this fact, however, the Board assumes jurisdiction, it cannot do other than make a denial award.

All evidence submitted in support of Carrier's position is known to employe representatives.

Carrier, not having seen the ORT's submission, reserves the right, after doing so, to present such additional evidence as may be necessary for the protection of its interests.

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.