

Award No. 12393
Docket No. TE-10272

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Michael J. Stack, Jr., 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 Telegraphers' Agreement when on November 28, 1956 it required or permitted Conductor Carter, an employe not covered by the Agreement, of First No. 11, to handle Train Orders Nos. 725, 727 and 729, and deliver these train orders to Conductor Carter of Work Extra 6206 at Keysville, Virginia, after Agent-Telegrapher W. B. Keeling had closed his office.

2. Carrier shall compensate W. B. Keeling, Agent-Telegrapher, Keysville, Virginia, for one call (two hours and forty minutes), as he was entitled to perform the work of handling the train orders enumerated above on November 28, 1956.

EMPLOYEES' STATEMENT OF FACTS: Mr. W. B. Keeling is the regular assigned Agent-Telegrapher at Keysville, Virginia and has regular assigned hours of 8 A.M. to 5 P.M., with one hour off for lunch, 12 noon to 1 P.M. His work begins on Monday, with assigned rest days Saturday and Sunday. On Tuesday, November 27, 1956, Engine 6206 was run as Train First No. 11 from Richmond, Virginia to Keysville, Virginia. Train Order No. 728 was issued at Hull Street Station, Richmond, Virginia, and provided for the movement. Train Order 728 read as follows:

SOUTHERN RAILWAY SYSTEM

Train Order No. 728
To C&E Eng. 6206
and Eng. 6207

Nov. 27, 1956

At Richmond, Va.

Eng. 6206 and 6207 run as first and second No. 11 Eleven Richmond to Keysville. Eng. 6207 run as No. 11 Eleven Keysville to Danville.

Claim being without any basis, the Board cannot do other than make a denial award.

OPINION OF BOARD: Were the train orders here involved "handled" by an employe not covered by the Telegraphers' Agreement so as to give rise to a breach?

The facts are these: Following a derailment in Carrier's Richmond Division the dispatcher at Greensboro issued orders which were received, copied and delivered by the telegrapher at Richmond to the members of the work train crew directing it to proceed by way of Keysville to the scene of the wreck near Chase City. The work train was to run as First No. 11 with Second No. 11 (the regularly scheduled train) to continue on through Keysville west to Danville (its regular run). From Keysville south to the wreck the work train was to run designated as work train 6206.

All trains were required by Carrier instructions to receive clearance cards at Keysville when the operator was on duty.

The work train arrived at Keysville when the operator was not normally on duty. The signals for the following section were taken down (from the engine) and this fact was noted on the train register. The work extra then proceeded to the wreck.

Should the train order which had the effect of changing the designation of the work train from First No. 11 to work extra 6206 have been handled by the regular operator at Keysville which is where the event took place?

The physical composition of the train remained unchanged. The crew was identical before and after. The train crew was handling its own orders and not someone else's. Its sole purpose was the wreck. Consequently we must conclude that the facts are closer to 6609, a denial award, than to 6124, a sustaining award.

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 1st day of April 1964.