

Award No. 12526

Docket No. TE-11479

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

CHICAGO GREAT WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago Great Western Railway, that:

1. Carrier violated the Agreement between the parties when on June 25, 1958 it required or permitted train service employees, not covered by the Agreement, to handle train orders.

2. Carrier shall compensate F. E. Hitchcock, senior idle telegrapher on the seniority district, in the amount of a day's pay (8 hours) at the straight time rate of \$2.216 per hour.

EMPLOYES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

On June 25, 1958 the train dispatcher at Oelwein issued the following train order:

"TRAIN ORDER NO. 31

June 25, 1958

TO C&E NO. 91

No. 192 Motor 103-C wait at Aiken until 8:55 A.M. for No. 91 Motor 106-C.

WJM

Made Complete at 7:55 A.M. to Condr. Anderson and Engineer Elliott."

The train order was addressed to No. 192 at Fair Ground and was received, copied and delivered by the telegrapher at that station. The copy of the order for train No. 91 was transmitted by the train dispatcher to the telegrapher at Stockton, Illinois on the dispatchers' telephone (carrier circuit) who, in turn, transmitted by telephone (radio) to the conductor and engineer of Train No. 91. Train No. 91 left Stockton at 7:15 A.M. and was west of Stockton and east of Aiken when the train service employees handled the train order. There is a difference in opinion between the parties as to the

CONCLUSION

Carrier has established that there has been no violation of the applicable Agreement and that claimant is not entitled to the compensation claimed.

Therefore, Carrier respectfully requests that this Board deny the claim of the Employees in this matter.

(Exhibits not reproduced.)

OPINION OF BOARD: Claim is made on behalf of F. E. Hitchcock, senior telegrapher, that Carrier violated the Agreement when it failed to call him to perform the services of handling Train Order No. 31 on June 25, 1958. This order was sent by the train dispatcher to the agent telegrapher who in turn relayed the message by radio to the conductor and engineer of Train No. 91. There was no telegrapher on duty at the time the message was received.

Claimant takes the position that handling of train orders, which includes the copying, receiving, and delivering, is reserved to employees covered by the Telegraphers' Agreement. He relies upon a memorandum agreement referred to as Addendum No. 3 to support the position that a telegrapher available should have been used to perform this service. Paragraph two of the Addendum provides that:

" . . . it is agreed that train and/or engine service employees will not be required to call dispatchers on telephone in connection with train movement or take orders over the telephone except in emergencies."

Claimant maintains that the instant case does not involve an emergency or any of the three exceptions specified in the Addendum.

Carrier, on the other hand, contends that Addendum No. 3 was not violated because it applies only to telephone conversations with the dispatcher with reference to train movements. It further asserts that a train failure created an emergency which, under Addendum No. 3, permits the conductor and engineer to handle the train order. Carrier also maintains that the handling of the train order was pursuant to the long established practice under Rule 217 (b), Rules and Regulations of the Operating Department.

We regard the interpretation of paragraph two of Addendum No. 3 as the controlling provision in this issue. Award No. 10535, which involved the same parties and the interpretation of the same part of the Addendum, held:

" . . . that Addendum No. 3 was not violated by the Carrier when the conductor at a station where no operator was employed telephoned the telegrapher for train orders."

Again in Award No. 10872, also involving the identical parties and the same provision in Addendum No. 3, the Board ruled that there was no violation of the Agreement when the order was relayed to a conductor by a telegrapher. In this dispute the train order was not received or copied by a conductor directly from a train dispatcher but was copied by a conductor at a location where a telegrapher was not employed. That award held that the Agreement was not violated when the conductor took the train orders over the telephone from the telegrapher.

Since both these awards are consistent in the interpretation of this section of Addendum No. 3 and since we find that such interpretation is not palpably erroneous, we hold that 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

The Agreement of the parties 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 21st day of May 1964.