

Award No. 13156
Docket No. TE-12362

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE PENNSYLVANIA RAILROAD COMPANY

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

H. Wood, regular incumbent of the AWC & PO position at Union, Terre Haute, Indiana, tour of duty, Monday through Friday, rest days Saturday and Sunday, hours 8:00 A.M. to 3:00 P.M., should have been called to perform the required service at Union, Terre Haute, Indiana, at 8:00 P.M., Tuesday, April 14, 1959, but instead a signal inspector, an employe of the C&S Department, an employe not covered by the scope of our Agreement, was used to perform the required service at Union on this date.

Therefore, Claimant H. Wood is entitled to be paid one (1) three (3) hour call at the straight time rate of the position as established for the AWC & PO position at Union, Terre Haute, Indiana, for not being called to perform the required service, Tuesday, April 14, 1959.

It can be established that there were no qualified extra Group 2 employes available.

EMPLOYEES' STATEMENT OF FACTS: Union Telegraph Office is located in Terre Haute, Indiana, where claimant was the regularly assigned assistant wire chief — printer operator, assigned hours 8:00 A.M.-4:00 P.M., Monday through Friday.

About 3:40 P.M., April 14, 1959, claimant was notified that telephone circuit No. 19 was in trouble inasmuch as the train dispatcher at Indianapolis was unable to contact the East Yards Office at Terre Haute. It then became the duty of the claimant to locate the trouble and bring about the restoration of service. It developed in addition to No. 19, Circuits 20 and 57 North were also in trouble. Claimant, after locating the trouble, "patched" around it and provided a circuit for use of the train dispatcher. She then notified the line-men of the character of the trouble and its approximate location. Upon

rightfully accrues to Signal Department Employees, particularly under Third Division Award No. 3524, and the Maintainer of Signals therefore did not perform any duties which Group 2 employees covered by the Agents-Telegrapher's Agreement have a demand or exclusive right to perform.

It is, therefore, respectfully submitted that the claim is not supported by the applicable Agreement and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant during her regular tour of duty as Assistant Wire Chief, was notified that certain telephone circuits were not in operative condition. After locating the trouble, she "patched" around it and provided a circuit for use of the train dispatcher. She then notified the linemen of the character of the trouble, its approximate location, and upon inquiring as to the approximate time it would take to clear the trouble, was advised that it would require three or four hours. Claimant left the office upon completion of her eight hour assignment at 4:00 P.M. At approximately 8:30 P.M., 4½ hours later, signal employees made the necessary repairs to the lines and the maintainer, C&S performed certain tests after removing the patch cards, which had been placed by the Claimant before she went off duty. The testing by the C&S maintainer, after repairs were made, was to ascertain whether or not the repairs were adequate. As a result of the C&S maintainer making this test, a time claim was submitted by the Claimant requesting payment of a call for not being called out to make the test.

This case poses the question as to whether or not testing and patching are, within the Scope Rule of the Telegraphers' Agreement. A review of this rule indicates that it is general in scope, merely listing the categories of personnel covered by the Agreement and does not delineate the specific work to be done. Hence in order to sustain his claim, Petitioner must show, in the face of a broad, general Scope Rule that the work complained of, has historically, customarily, and in practice, been performed exclusively by the classification of employee involved in the instant dispute. Such evidence has not been proffered by the moving party.

Furthermore, the record contains the Scope Rule of the signal department employees, part of the basic Agreement with this Carrier. An objective reading of this rule militates against the argument that the work involved has been done exclusively by the telegraphers. This Board, in Award Number 3524, enunciated the following principle applicable to interpretation of the scope provision:

"... The Carrier contends that testing, patching and balancing do not belong exclusively to the telegraphers. In this respect, we are of the opinion that testing, patching and balancing is work belonging exclusively to the telegraphers when it is incidental to and done in connection with the operation of lines, either telegraph or telephone, in performing work belonging to the telegraphers under their Agreement. On the other hand, such work is not that of the telegrapher when done by Telegraph and Signal Maintainers incidental to and in connection with the maintenance of lines. With these general rules in mind, we will consider the particular facts that brought about this dispute."

We think that the work done in this case by the C&S maintainer was "incidental to and in connection with the maintenance of lines." We think

further that the reasoning expressed in the above quotation especially when confronted with two such Scope Rules is sound and logical. This in addition to the broad, general nature of the Telegraphers' Scope Rule and in the absence of evidence to sustain the custom, history and practice doctrine, we will deny the claim.

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

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 11th day of December 1964.