

Award No. 13267
Docket No. TE-13132

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
READING COMPANY**

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

1. Carrier violated the Agreement between the parties when it required or permitted train service employes to handle train orders at Corsons, Pennsylvania, on July 5, 11, 18, 19, August 1, 3, 1960, at a time when the Agent-Telegrapher was off duty.

2. Carrier shall be required to compensate W. Balcer, Agent-Telegrapher, Corsons, in the amount of a call payment on each date set forth above.

EMPLOYES' STATEMENT OF FACTS: The Agreement between the parties, effective April 1, 1946, corrected September 1, 1951, as amended and supplemented is available to your Board and by this reference is made a part hereof.

Corsons, Pennsylvania, is a station on the Philadelphia Division of this Carrier's lines. There is one position under the Agreement at this station, Agent-Telegrapher, with assigned hours 7:45 A. M. to 4:45 P. M. (one hour meal period 11:00 A. M. to 12:00 N.), assigned rest days Saturdays and Sundays, not filled on rest days. It is a one-man station. W. Balcer is regularly assigned to the position of Agent-Telegrapher at Corsons.

Date	Order No.	To	At	Copied By	Title	Time
7- 5-60	322	Wk. Exa. 632	SN Corsons	W. Harple	Condr.	4:46PM
7-11-60	320	Wk. Exa. 503	SN Corsons	W. Harple	Condr.	5:03PM
7-18-60	324	Wk. Exa. 483	SN Corsons	W. Harple	Condr.	5:53PM
7-25-60	319	Wk. Exa. 504	SN Corsons	W. Harple	Condr.	4:51PM
8- 1-60	322	Wk. Exa. 521	SN Corsons	W. Harple	Condr.	5:23PM
8- 3-60	323	Wk. Exa. 521	SN Corsons	W. Harple	Condr.	4:49PM

Article 34 of the Agreement reads as follows:

The denials of this claim by Mr. Hunter and Gauntt are that these train orders were handled via an employe under the scope of our agreement, the fact that similar claims on this property were allowed also was not disputed.

It is therefore our contention that our current agreement was violated, Scope Rule 1 and Article 34, which are supported by numerous awards of the Third Division Adjustment Board, and also cases handled on this property as outlined in appeal to Mr. Gauntt.

Please advise allowing this claim.

Following investigation of the claim, Carrier replied to the above by letter of February 7, 1961, reading as follows:

"Referring to your letter dated January 12, 1961, file P-167-34-60, in connection with handling of train orders at Corsons on certain stated dates in July and August of 1960:

It is my understanding these train orders in each instance were handled thru Towermen at 'Kelb' Norristown, employes under the scope of your agreement. I, therefore, see no violation of Rules 1 or 34, nor any other rules of your agreement, and your claim is respectfully denied."

As set out in the foregoing letter, it is the position of the Carrier that the handling in the instant claim did not violate provisions of Article 1 and 34 nor any other rules of the schedule agreement, and Carrier, therefore, submits that the instant claim should be denied in its entirety.

OPINION OF BOARD: This dispute involves the handling of a train order at a location where an Agent-Telegrapher was assigned but off duty. An employe not under the Telegrapher Agreement handled the train order. The Carrier contends that the Claimant was not available.

It is incumbent upon the Carrier to show that the Claimant was not available nor could be promptly located. There is no evidence in the record to support the contention that he was not available and or could not be promptly located. X

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 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of February, 1965.