

Award No. 13949
Docket No. TE-13149

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William E. Coburn, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly 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:

E. C. Butler, extra operator, be paid for eight hours, for September 15, 1959, account Order No. 20 delivered to track car drivers at Keating Summit by MofW Foreman. Foreman drove to "NR" Block Station in his automobile, got Order No. 20, and took same to Keating Summit delivering it to track car drivers at that location. Had he not delivered order in this manner, crew at Keating Summit would be unable to start work. This was done to avoid penalty, the only other alternative in getting the crew to begin work for operator at "NR" to telephone order there and thus deliver it the proper way and addressing same to where equipment was actually located.

EMPLOYEES' STATEMENT OF FACTS: The facts in this case are fairly well stated by the following correspondence exchanged by the parties on the property. The District Chairman lodged the claim with the Superintendent-Personnel, who responded as follows:

"Buffalo 4, New York
3-V

Mr. V. F. Lagonia
Local Chairman, O. of R.T.
Hillcrest Acres
Emporium, Pa.

Dear Sir:

This refers to the following subject which was discussed at our meeting on November 13, 1959:

NORTHERN REGION - NORTHERN DISTRICT

N-69-Claim of E. C. Butler, Extra Operator, for eight hours for September 15, 1959, account Order No. 20 Delivered

III. Under The Railway Labor Act, The National Railroad Adjustment Board, Third Division, Is Required To Give Effect To The Said Agreement, And To Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act, to give effect to the said Agreement, which constitutes the applicable Agreement between the parties and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties hereto and impose upon the Carrier conditions of employment and obligation with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The Carrier has established that there has been no violation of the applicable Agreement, and that the Claimant is not entitled to the compensation which he claims.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employees in this matter.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue here is identical with that considered and decided by the Board in Award 13948.

Accordingly, this claim must also be denied.

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 5th day of November 1965.