

Award No. 14112
Docket No. TE-14209

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

NEW YORK CENTRAL RAILROAD
(Southern District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central Railroad (CCC&StL), that:

1. *Carrier violated the provisions of the Agreement on October 25, 1961, when Track Supervisor Bodenmiller transmitted accident report GCA-1 on personal injury of John M. Osburn to Division Engineer J. R. Rosenbaum by telephone and failed to call W. H. Vance at Hayes Tower who was senior, idle and available on his rest day to perform the work.*
2. *Carrier shall compensate W. H. Vance for 8 hours' pay for October 25, 1961.*

EMPLOYEES' STATEMENT OF FACTS: On October 25, 1961, Track Supervisor Bodenmiller reported a personal injury sustained by John M. Osburn who was a Gang Foreman working under his jurisdiction. This action and report was given to Division Engineer Rosenbaum by telephone sometime during the morning of October 25, 1961. The injury occurred while the employe was working on a work train approximately three miles east of Marion and about 11:20 A. M. on October 24th which was the day before the report was made. The Carrier's rules required that when Maintenance of Way men are injured the Track Supervisor has instructions to make an immediate report of such injuries to the Division Engineer so that a proper GCA-1 and GCA-2 report will be on file.

Carrier did not deny that the report of the injury was made as stated by the employe. Claim was made in behalf of W. H. Vance, the operator at Hayes Tower, for 8 hours for October 25th account the accident report was transmitted by the Track Supervisor to the office of Division Engineer. Mr. Vance was on one of his rest days.

The claim was appealed to the highest officer and declined by him. The claim is now properly before your Board for final adjudication.

POSITION OF EMPLOYEES: Article 5, Article 10 (a) are submitted for your ready reference.

"Part 2 of the claim falls for lack of evidence. It is apparent from the record that claimant suffered no monetary loss."

In First Division Award No. 15527, with Referee Mortimer Stone, the Findings and Award read, as follows:

"At the time the Main Line Division crew was required to move the two cars from 'E' yard to 'B' yard, there were seven Clairton Seniority District general switching crews then on duty, one of which would normally have done the work. There is no showing that an extra crew would have been required, or is entitled to compensation.

AWARD: Claim denied."

CONCLUSION

Carrier has shown:

That, the telephone conversation here in dispute did not become a matter of record;

That, Article 1 relied upon by the Organization was not violated;

That, Claimant would not have been called and suffered no monetary loss.

For the ororard

For the aforecited reasons, claim, as progressed here, is without merit and must be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: It is charged by the Claimant, W. H. Vance, that Carrier transmitted accident report GCA-1 on the personal injury of one Osburn, in that on October 25, 1961, the Track Supervisor reported to the Division Engineer, his immediate superior, an accident in which the Gang Foreman, under his supervision, sustained personal injury, the injury being incurred while employe was working on a work train three miles out of Marion, Ohio, about 11:20 A. M. on October 24, 1961. It is the contention of Claimant that it was the practice on this Carrier to transmit all reports of personal injury accidents through employes covered by the Telegraphers' Agreement; that the Track Supervisor's conduct in calling the Division Engineer directly by telephone and reporting the accident and injury was in violation Article 1 of the Agreement, the Scope Rule.

Carrier admits that the Track Supervisor called the Division Engineer directly by telephone and informed him that an accident had occurred and an employe had been injured, however, Carrier alleges this conversation took place on October 24 rather than on October 25. Carrier maintains that what was done was in accordance with a long established practice on Carrier that the Track Supervisor called his immediate superior, the Division Engineer, who was furnished by this conversation only preliminary information in connection with the injury, that the Division Engineer was not the officer charged with the responsibility of issuing GCA-1 accident reports. Carrier further maintains that on the morning of October 25, subsequently, the Track Supervisor prepared Form GCA-1 (Telegrapher Report of Personal Injury) and tele-

phoned it to the telegraph operator at Crestline, Ohio, who in turn transmitted it to the District Superintendent who is charged with the responsibility of issuing GCA-1 reports and he in turn transmitted it to various interested officials. That everything that was done was in compliance with long established practices on this property.

Claimant has cited two Awards on another Carrier in support of his position. Award No. 6330 — (Smith) and Adjustment Board 117 — Award 59. These awards are based on the customs and practices on that particular property and are not controlling here.

The present claim was originally processed on an alleged violation of Article 1, the Scope Rule of the Telegraphers' Agreement. The presentation by Claimant of his position was somewhat superficial and there was a failure on the part of the Claimant to demonstrate that the information conveyed to the Division Engineer by the Track Supervisor was a GCA-1 report or that it was an established practice on this property to transmit preliminary information of this nature, as described herein, through an employe covered by the Telegraphers' Agreement.

Furthermore, Hayes Tower where Claimant was employed Thursday through Monday on the second trick was open twenty-four hours a day, seven days a week. It is not controverted that there was an operator on duty at Hayes when information concerning the accident and injury was transmitted by the Track Supervisor to the Division Engineer. It is quite evident that Claimant would not have been called even though Carrier had desired the service of a telegrapher. Claimant, consequently, has suffered no monetary loss.

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

There has been no violation of the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of January, 1966.