

Award No. 14404
Docket No. TE-11733

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

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

THE INDIANAPOLIS UNION RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Indianapolis Union Railway that:

1. Carrier violated and continued to violate the Agreement between the parties when on November 3, November 21, December 1, December 15, December 20, 1958 and subsequent dates, it requires or permits an employe not covered by the Agreement to transmit messages from Indianapolis, Indiana to the NYC operator at Anderson, Indiana, and/or the NYC train dispatcher at Springfield, Ohio.

2. Carrier shall compensate the senior telegrapher idle on rest day, T. A. Morley on November 3, 1958, A. L. Sanders on November 21, 1958, C. L. Herbert on December 1 and 15, 1958 and J. B. Thomason on December 20, 1958, in the amount of a day's pay (8 hours) at the time and one-half rate.

3. Carrier shall compensate the senior idle telegrapher, extra in preference, in the amount of a day's pay (8 hours) on each day the violation occurs subsequent to December 20, 1958.

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

This Carrier operates a terminal facility at Indianapolis, Indiana, providing service for six trunk-line Carriers, viz., New York Central, Pennsylvania, Baltimore & Ohio, Monon, Nickel Plate, and Illinois Central. The passenger trains of these Carriers enter and leave the Indianapolis Union Station.

The Indianapolis Union Railway telegraph office, known as "UN" Office, is located on the ground floor of the Union Station. The telegraphers' positions in "UN" Office are listed in the wage scale of the controlling agreement and are filled by employes holding seniority under that agreement. The work assignment of the positions is to handle train orders, messages, and other

The transmission of the messages referred to was not by the New York Central yardmaster at Indianapolis direct to the operator at Anderson on the dispatchers' wire by subterfuge or otherwise, verified by statements of New York Central Chief Dispatcher, O. W. Neu, identified as Exhibit B; Dispatcher J. C. Moore, identified as Exhibit C, and Operator D. F. Toops, identified as Exhibit G.

The Carrier has no knowledge of any similar incidents subsequent to January 12, 1959 and denies that such took place.

(Exhibits not reproduced.)

OPINION OF BOARD: At the UN telegrapher's office located on the ground floor of the Indianapolis Union Station there are three shifts of employees who provide 'round-the-clock service seven days per week for six trunk lines. These telegraphers, subject to the Agreement between the Order of Railroad Telegraphers and the Indianapolis Union Railway Company, handle communication work, train orders, clearances, consists, and work in connection with the arrival and departure of passenger trains. The New York Central Railroad maintains a yardmaster's office on the mezzanine floor of this station. This office has jurisdiction over the New York Central trains in the Indianapolis terminal. The yardmasters are covered by an Agreement with the New York Central Railroad.

The Brotherhood contends that on the dates specified in the claim, New York Central yardmaster M. Hahn transmitted messages from Indianapolis, Indiana to the New York Central operator at Anderson, Indiana and/or the New York Central train dispatcher at Springfield, Ohio. It maintains that the yardmaster violated the Scope Rule of the Agreement by performing communication work that rightfully belonged to telegraphers namely, by transmitting messages concerning the movement of trains over the dispatcher's telephone in the Indianapolis Terminal asserting that (1) the claim with respect to November 3 was filed subsequent to the time limit permissible under Article V-1(a) of the National Agreement effective January 1, 1955; (2) that the telephone conversations referred to by Claimant were not made over the dispatcher's telephone but were conducted over an exclusive New York Central line and (3) that the telephone transmission of messages as actually handled by a New York Central employee on a New York Central line dealing with a New York Central train cannot be construed as a violation of the Scope Rule of the organization with the Indianapolis Union Railway Company.

We find that the claim with reference to November 3 was filed subsequent to the sixty day time limit specified . . . in Article V-1(a) of the National Agreement effective January 1, 1955 and therefore is not under the jurisdiction of the Board.

There are conflicting statements by Organization and Carrier as to which telephone, dispatcher's or private New York Central line, was used by yardmaster M. Hahn on the dates cited. The evidence furnished by Organization to support its version of the circumstances prompting the filing of the claim is insufficient for us to make a determination of fact. Claim is therefore dismissed.

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 claim is dismissed in accordance with above opinion.

AWARD

That the claim is dismissed in accordance with above opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of May 1966.