

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION**

Edward A. Lynch, Referee

PARTIES TO DISPUTE:**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)****THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
and
THE LAKE ERIE & EASTERN RAILROAD COMPANY****STATEMENT OF CLAIM:** Claim of the General Committee of The Order of Railroad Telegraphers on the Pittsburgh and Lake Erie Railroad, that:

1. Carrier violated the Telegraphers' Agreement, Article 1, Scope Rule, when it required or permitted clerks, employees not covered by the Agreement, at Gateway Yard, Struthers, Ohio, to transmit wheel reports of various trains to Pittsburgh by telephone on the dates and times listed below:

1. October	19, 1960	12:35 A. M.
2. October	20, 1960	10:40 P. M.
3. October	19, 1960	10:55 P. M.
4. October	20, 1960	1:20 A. M.
5. October	20, 1960	1:25 A. M.
6. October	20, 1960	9:15 P. M.
7. October	20, 1960	9:30 P. M.
8. October	20, 1960	11:50 P. M.
9. October	21, 1960	12:45 A. M.
10. October	21, 1960	1:15 A. M.
11. October	22, 1960	2:00 A. M.
12. October	22, 1960	4:10 A. M.
13. October	22, 1960	4:30 A. M.
14. October	25, 1960	1:00 A. M.
15. October	25, 1960	1:45 A. M.
16. October	25, 1960	2:15 A. M.
17. October	25, 1960	11:30 P. M.
18. October	25, 1960	11:50 P. M.
19. October	26, 1960	12:15 A. M.
20. October	26, 1960	12:30 A. M.

21.	October	26, 1960	9:25 P. M.
22.	October	26, 1960	11:15 P. M.
23.	October	26, 1960	11:50 P. M.
24.	October	27, 1960	1:25 A. M.
25.	October	27, 1960	4:10 A. M.
26.	October	28, 1960	1:00 A. M.
27.	October	28, 1960	1:30 A. M.
28.	October	28, 1960	2:00 A. M.
29.	October	28, 1960	2:30 A. M.
30.	October	28, 1960	10:25 P. M.
31.	October	28, 1960	10:35 P. M.
32.	October	29, 1960	1:00 A. M.
33.	October	29, 1960	1:30 A. M.
34.	October	29, 1960	1:45 A. M.
35.	October	29, 1960	3:00 A. M.
36.	November	1, 1960	2:15 A. M.
37.	November	1, 1960	1:00 A. M.
38.	November	2, 1960	1:30 A. M.
40.	November	2, 1960	2:00 A. M.
41.	November	3, 1960	1:30 A. M.
42.	November	3, 1960	2:00 A. M.
43.	November	3, 1960	2:30 A. M.
44.	November	3, 1960	3:30 A. M.
45.	November	2, 1960	12:10 P. M.
46.	October	22, 1960	11:00 P. M.
47.	October	22, 1960	11:45 P. M.
48.	October	22, 1960	11:45 P. M.
49.	November	3, 1960	11:30 P. M.
50.	November	4, 1960	12:05 A. M.
51.	November	4, 1960	1:30 A. M.
52.	November	4, 1960	2:00 A. M.
53.	November	5, 1960	2:30 A. M.
54.	November	5, 1960	3:00 A. M.
55.	November	5, 1960	3:50 A. M.
56.	November	5, 1960	4:10 A. M.
57.	November	5, 1960	11:30 P. M.
58.	November	6, 1960	12:15 A. M.
59.	November	6, 1960	12:45 A. M.
60.	November	8, 1960	1:00 A. M.
61.	November	8, 1960	3:00 A. M.
62.	November	9, 1960	1:00 A. M.
63.	November	9, 1960	1:35 A. M.
64.	November	9, 1960	2:00 A. M.
65.	November	9, 1960	11:00 P. M.
66.	November	10, 1960	12:05 A. M.
67.	November	10, 1960	2:20 A. M.

68.	November	10, 1960	3:45 A. M.
69.	November	11, 1960	12:05 A. M.
70.	November	11, 1960	1:45 A. M.
71.	November	11, 1960	2:20 A. M.
72.	November	11, 1960	11:30 P. M.
73.	November	12, 1960	1:40 A. M.
74.	November	12, 1960	2:30 A. M.
75.	November	12, 1960	3:00 A. M.
76.	November	15, 1960	2:15 A. M.
77.	November	15, 1960	3:00 A. M.
78.	November	15, 1960	11:30 P. M.
79.	November	16, 1960	1:35 A. M.
80.	November	16, 1960	3:00 A. M.
81.	November	15, 1960	12:15 P. M.
82.	November	16, 1960	12:25 P. M.
83.	November	17, 1960	12:20 A. M.
84.	November	17, 1960	12:45 A. M.
85.	November	17, 1960	1:15 A. M.
86.	November	17, 1960	1:45 A. M.
87.	November	18, 1960	12:15 A. M.
88.	November	18, 1960	12:45 A. M.
89.	November	18, 1960	1:15 A. M.
90.	November	18, 1960	1:20 A. M.
91.	November	19, 1960	1:25 A. M.
92.	November	19, 1960	1:50 A. M.
93.	November	19, 1960	2:45 A. M.
94.	November	22, 1960	5:20 A. M.
95.	November	22, 1960	12:15 P. M.
96.	November	23, 1960	12:45 A. M.
97.	December	31, 1960	4:05 A. M.
98.	December	31, 1960	4:25 A. M.
99.	December	31, 1960	4:50 A. M.
100.	January	4, 1961	1:50 A. M.
101.	January	4, 1961	3:15 A. M.
102.	January	5, 1961	2:20 A. M.
103.	January	5, 1961	4:40 A. M.
104.	January	6, 1961	3:00 A. M.
105.	January	6, 1961	3:30 A. M.
106.	January	7, 1961	12:20 A. M.
107.	January	7, 1961	3:10 A. M.
108.	January	6, 1961	1:50 A. M.
109.	January	8, 1961	12:20 A. M.
110.	January	8, 1961	6:00 A. M.
111.	January	11, 1961	2:30 A. M.
112.	January	11, 1961	3:15 A. M.

113.	January	12, 1961	1:20 A. M.
114.	January	12, 1961	2:20 A. M.
115.	January	12, 1961	3:55 A. M.
116.	December	6, 1960	2:45 A. M.
117.	December	6, 1960	12:50 P. M.
118.	December	6, 1960	4:00 A. M.
119.	December	4, 1960	12:20 A. M.
120.	December	4, 1960	1:25 A. M.
121.	December	7, 1960	12:50 A. M.
122.	December	7, 1960	1:50 A. M.
123.	December	7, 1960	10:10 A. M.
124.	December	9, 1960	12:50 A. M.
125.	December	9, 1960	1:45 A. M.
126.	December	9, 1960	2:30 A. M.
127.	December	10, 1960	12:15 A. M.
128.	December	10, 1960	1:30 A. M.
129.	December	10, 1960	2:00 A. M.

2. Carrier will compensate the operator on duty at "JW" at the time of the violations, eight hours at the pro rata rate of \$2.59 per hour. Claim is presented for \$20.72 for each and every violation listed above.

EMPLOYEES' STATEMENT OF FACTS: This dispute arose when the Carrier removed the work of transmitting wheel reports from the Telegraphers at Gateway Yard, Struthers, Ohio, and required Clerks, not covered by the Agreement, to perform the work that had previously been done by the Telegraphers. Previous to the date of the beginning of these claims on October 19, 1960, the following instructions were issued by the Carrier:

"Newell, Pa.
June 2, 1960

All Road Conductors

Effective at once all road conductors must leave their wheel reports and delay reports in the scale office on the operators desk downstairs. When through with wheel reports the operators will then return same to the yard office.

/s/ H. P. Schultz
General Yardmaster

cc: C. M. Lingle
W. S. Coleman"

In connection with the above instructions the Carrier sent two officials to Dickerson Run in Newell, to properly instruct the Telegraph Operators in how to transmit wheel reports by teletype to "DE" Office, Pittsburgh, Pennsylvania. The following instructions were issued by the Carrier at Dickerson Run, Pennsylvania:

merely dial a specific telephone number (in this instance — 721). The ringing of the telephone in the Consolidated Tabulating Bureau in Pittsburgh would activate a recording machine, and upon hearing a "beep signal" the clerk would start dictating over the telephone which would be recorded onto a disc-type record. This recording would later be transcribed by a key punch operator (a clerk) to IBM cards from the information contained thereon. The IBM cards would then be used for the preparation of the reports to be used in the tracing and utilization of cars.

Under date of August 23, 1961, carrier discontinued the operation described above due to the inadequacy of the information received, as well as the fact that the program instituted on October 10, 1960, was found not to be serving a useful purpose. Since August 23, 1961, carrier has handled wheel reports by mail in the same manner as prior to October 10, 1960.

In addition to the claims contained in this dispute, the employees have filed additional claims of this nature in favor of telegraph operators at carrier's other terminals. These claims are being handled with this Division by the Telegraphers' Organization in a separate ex parte submission covering five separate claims, identified as Cases Nos. 1 through 300, File ORT 3427.

The claims of the Employees in this dispute are based on the allegation that clerks at Gateway Yard, Struthers, Ohio, transmitted wheel reports to Pittsburgh, Pa., on various dates and times, and same was a violation of Article 1, Scope Rule, of the Telegraphers' Agreement.

Gateway Yard, Struthers, Ohio, is the westwardly terminal of this carrier and is a final terminal for road crews. Thus, wheel reports, as set forth above, have been telephoned by clerks from this terminal to the Consolidated Tabulating Bureau in Pittsburgh, Pa.

On October 20, 1961, carrier received a copy of President Leighty's letter dated October 18, 1961, to Executive Secretary Schultzy of the Third Division, National Railroad Adjustment Board, advising the Division of its intention to submit the dispute to the Board for adjudication.

The claims identified as Nos. 97 through 129, as listed in Section 1 of the Employees' Claim, have not been progressed to or denied by the Director of Personnel, the highest officer of the carrier designated to handle claims and grievances. The claims identified as Nos. 1 through 96 were progressed to the Director of Personnel and were denied on the basis that the work in connection with handling wheel reports has always been performed by clerks and the telephoning of information from wheel reports by clerks was not in violation of the Telegraphers' Agreement.

OPINION OF BOARD: Carrier here states that:

"... historically on this property wheel reports have been compiled and handled by clerical employees. A clerk at a terminal from which trains depart would furnish the conductor with the original wheel report and send one copy by mail to the Superintendent of Transportation in Pittsburgh. The original wheel report, after completion by the Conductor at the final terminal, was mailed to the office of Auditor of Car Records, Buffalo, New York."

The Organization does not disagree. It states that "wheel reports are almost invariably made up by yard clerks. One copy is given to the conductor of the train who carries it with him to the end of the run where further use is made according to the needs of the particular railroad involved . . ."

It admits that prior to May 21, 1960 wheel reports of trains operating into "Gateway Yard," and other places on this railroad, were mailed to the Carrier's general offices in Pittsburgh and also to Buffalo.

Organization states that effective May 21, 1960 the Carrier required wheel reports to be transmitted by teletype to Pittsburgh before being mailed. This teletype transmission work was performed by the telegraph operators.

Organization asserts that in October of 1960 the Carrier began a method of "handling wheel reports by which a clerk transmitted them by telephone to Pittsburgh where they were received on an electrical device that made a recording which was later transcribed (therefrom) by another clerk for further use."

Organization describes the issue here as a question

"of whether such use of the telephone and the recording device connected to it was violative of the telegraphers' agreement."

The Carrier describes its action as follows:

"In May, 1960 the Carrier conducted test methods of securing desired car utilization information from wheel reports. The Carrier instructed its Yard Clerks at Dickerson Run to leave their wheel reports with the Operator who teletyped the wheel report information to Pittsburgh. The test period was terminated June 15, 1960. A similar test was conducted at Newell, Pa., beginning June 2, 1960 and terminated on June 15, 1960."

Carrier states that on October 10, 1960 it placed in operation a new system for securing information from wheel reports. Clerical employees at the final terminal were instructed to report by telephone, information taken from the conductors' wheel report, to the Consolidated Tabulating Bureau at Pittsburgh, Pa. The information reported by the clerks "did not concern the movement or operation of trains since it was called in after the completion of the run. (R. p. 38)."

Argument offered in behalf of the Organization asserts this "quite obviously (is) a 'scope rule case' . . . The scope rule is a combination of 'general' and 'specific.' It is general as to traditional coverage and specific as it relates to operation of 'mechanical or electrical machines or similar devices used for transmitting and/or receiving communications of record'."

Organization asserts "the quoted (scope rule) language clearly includes teletypes. And the Carrier is careful to note that so long as transmission was accomplished by teletype the work was done by telegraphers."

The dispute here is described, in argument offered in behalf of the Carrier, as "whether or not the use of the telephone to report information from wheel reports after the completion of a trip, is work that belongs to the telegraphers to the exclusion of all others."

Organization here conceding that "wheel reports are invariably made up by clerks; and that one copy is given to the conductor of the train who carries it with him to the end of the run where further use of its is made according to the needs of the particular railroad involved, we must observe that the handling of the wheel report from its inception to the final terminal of the train involved did not violate the applicable agreement. (Emphasis ours.)

Carrier describes its revised system as follows:

"The system instituted by carrier on October 10, 1960, was a change in the method of handling wheel reports only to the extent that the outbound wheel report was no longer mailed from the departing terminal of a train to Pittsburgh to be used for tracing. In its stead, information from the conductors' completed wheel report was telephoned to Pittsburgh by a clerk from the final terminal of the train. Subsequently the completed wheel report was mailed to the office of Auditor of Car Accounts as in the former method.

The telephoning of the information from the completed conductors' wheel report at the final terminal, as set forth above, was accomplished by means of a direct telephone line from carrier's various terminals to the Consolidated Tabulating Bureau in Pittsburgh. Clerical employes at the final terminals, who were assigned to furnish the information from the wheel report, would merely dial a specific telephone number (in this instance — 721). The ringing of the telephone in the Consolidated Tabulating Bureau in Pittsburgh would activate a recording machine, and upon hearing a 'beep signal' the clerk would start dictating over the telephone which would be recorded onto a disc-type record. This recording would later be transcribed by a key punch operator (a clerk) to IBM cards from the information contained thereon. The IBM cards would then be used for the preparation of the reports to be used in the tracing and utilization of cars."

It is the Carrier's contention that this new system was a change in the method of handling wheel reports only to the extent that the outbound wheel report was no longer mailed from the departing terminal of a train to Pittsburgh to be used for tracing. In its stead, Carrier states, information from the conductors' completed wheel report was telephoned to Pittsburgh by a clerk from the final terminal of the train. Subsequently the completed wheel report was mailed to the office of Auditor of Car Accounts as in the former method.

It is the Organization's contention that Carrier, by its action, "transferred the transmission of wheel reports to clerks who telephoned them to Pittsburgh."

The Organization relies on the Scope Rule's reference to "employes performing service requiring information . . . in connection with the movement or operation of trains . . ." and its argument that a wheel report is a communication of record.

So far as the facts and supporting argument here are concerned, we must and do find that the posture of the wheel report, at the time the data therefrom are recorded by Carrier, is such that it can no longer be considered a

"report of the movement of trains" because the train involved has already completed its assignment before the data are recorded.

For us to sustain the position of the Organization would be to say that once a wheel report of a specific train is handed in at the end of its assigned run, its data are no longer available to Carrier unless through an operator.

The applicable agreement does not so provide; neither can we.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 16th day of November 1966.