

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Robert A. Franden, Referee**

**PARTIES TO DISPUTE:**

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**

**NORFOLK AND WESTERN RAILWAY COMPANY**  
**(Lake Region)**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Transportation-Communication Employees Union on the Norfolk and Western Railway (Lake Region), that:

1. Carrier is violating Rule 26 of the Telegraphers' Agreement by requiring and/or permitting trainmen to operate the telephone to communicate with the train dispatcher for the purpose of blocking trains between AC&NA Junction and Adena, Ohio.
2. Carrier shall compensate either the first-out, idle extra telegrapher, or the senior idle regularly assigned telegrapher observing his rest day, if no idle telegrapher idle, in accordance with the provisions of Mediation Agreement of February 23, 1962, commencing June 22, 1965 and continuing for each violation so long as this violative practice is permitted to exist.
3. A joint check of records is hereby requested to determine the number of violations to date.

**EMPLOYEES' STATEMENT OF FACTS:** The Agreement between the parties effective February 1, 1951 as amended and supplemented is available to your Board and by this reference is made a part hereof.

These claims were presented and progressed in accordance with the time limits provided by the Agreement up to and including appeal and conference with the highest officer designated by the Carrier to receive appeals. Having failed to reach a settlement, the Employees now appeal to your Honorable Board of adjudication.

The violations of the Agreement at issue in these claims occurred at AC&NA Junction, a point where two Branch lines spring off of the Wheeling District main line of the Carrier which extends from Brewster Yard to Terminal Junction. In order that trains operating over these branches may leave or enter the main track from either direction (east or west), switches

The use of the telephone by train crews as specifically described in the instances occurring on the three dates cited in the original claim letter (Carrier's Exhibit A) has been a regular occurrence since before 1931. None of the conversation monitored and cited by the Employees became a matter of train sheet information.

The handling of the claim on the Carrier's property is shown by the following letters which are reproduced as Carrier's Exhibits:

CARRIER'S EXHIBIT A — June 28, 1965 — Submission of claim — District Chairman to Chief Train Dispatcher.

CARRIER'S EXHIBIT B — June 30, 1965 — Denial of claim — Chief Train Dispatcher to District Chairman.

CARRIER'S EXHIBIT C — July 8, 1965 — Rejection of denial — District Chairman to Chief Train Dispatcher.

CARRIER'S EXHIBIT D — July 8, 1965 — Appeal — District Chairman to Superintendent.

CARRIER'S EXHIBIT E — August 25, 1965 — Denial of appeal — Superintendent to District Chairman.

CARRIER'S EXHIBIT F — August 27, 1965 — Rejection of denial — District Chairman to Superintendent.

CARRIER'S EXHIBIT G — September 13, 1965 — Appeal — General Chairman to Director of Personnel.

CARRIER'S EXHIBIT H — November 10, 1965 — Denial of appeal — Director of Personnel to General Chairman.

CARRIER'S EXHIBIT I — June 2, 1966 — Affirmation of denial — Director of Personnel to General Chairman.

CARRIER'S EXHIBIT J — July 19, 1966 — Rejection of denial — General Chairman to Director of Personnel.

(Exhibits not reproduced.)

**OPINION OF BOARD:** For the reasons set forth in the opinion covering Award Number 17036, we will deny the claim.

**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 26th day of March 1969.**