



**Award Number 17333**

**Docket Number TE-16256**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**David H. Brown, Referee**

**PARTIES TO DISPUTE:**

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**

**THE NEW YORK, NEW HAVEN AND HARTFORD  
RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Transportation-Communication Employees Union on The New York, New Haven and Hartford Railroad, that:

1. Carrier violated the Agreement between the parties, when on November 30, December 1, 4, 11, 14, 15 and 18, 1964, it required and/or permitted persons not covered by the scope of the Agreement to copy motor, hand car messages and block these vehicles at Plainville, Connecticut, a station where a telegrapher was available for service.
2. Carrier shall pay H. L. Benson, ticket agent-telegrapher at Plainville, Connecticut, a call, 2 hours at time and one-half for each of the violations listed in Claim No. 1.

**EMPLOYEES' STATEMENT OF FACTS:** An Agreement between The New York, New Haven and Hartford Railroad Company and this Union, dated September 1, 1949 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 for adjudication.

The portion of the Carrier involved in these claims is operated by timetable, train orders and manual block system. The vehicles involved are defined in the Carrier's Book of Rules as follows:

**"MOTOR HAND CAR OPERATION.**

**DEFINITION.**

**Motor Hand Car.**—A motor driven railway work or inspection car, numbered for identification, with or without trailer cars.

**NOTE.**—Where the word 'car' appears in Rules 950 to 982 inc., it applies to motor hand cars.

Brotherhood of Maintenance of Way Employees' organization operating a Highway-Rail motor hand car stopped at Plainville and by telephone at that location contacted the operator in control of the block at either S.S. 75 or Waterbury—an employee represented by the Transportation-Communication Employees Union. The operator in control of the block relayed to the track patrolman at Plainville a motor hand car message from the dispatcher advising of any extra trains that would operate on the line.

Track patrols regularly operate under the protection of motor hand car messages of the type here involved. Such a message confers no right upon the car over other trains, but serves to advise that no extra trains will operate over the track involved. This information, coupled with timetable schedules of regular trains, informs the patrol car operator of the times he must clear the track. In effect, the message serves the same function as a line-up.

The Petitioner seeks to establish by this claim that the Carrier was required to call upon the regularly assigned operator at Plainville to perform the function performed by the Motor Hand Car Operator notwithstanding the fact that neither the claimant or other employees represented by the Transportation-Communication Employees Union customarily work at Plainville during the times the track patrolman used the telephone at that location to contact the operator in control of the block.

There is no rule in the controlling agreement between the parties which requires that Telegraphers perform the function of copying motor hand car messages nor is there any rule which specifically reserves such work to the Telegraphers' craft.

Claim was submitted by the Petitioner because the track patrolman copied motor hand car messages on the dates of claim on the basis that Ticket Agent-Operator H. L. Benson should have been called to perform this work. Copy of the pertinent correspondence in the handling of the dispute on the property is attached in exhibit form as follows:

Exhibit A—District Chairman Kelleher's claim of February 12, 1965

Exhibit B—Superintendent MacLeod's decision of March 4, 1965

Exhibit C—Appeal of the General Chairman dated March 25, 1965

Exhibit D—Carrier's final decision dated May 12, 1965

Copy of the agreement between the parties effective September 1, 1949, as amended, is on file with your Board and is by reference made a part of this submission.

(Exhibits not reproduced)

**OPINION OF BOARD:** We believe the issue before us had been settled on this property in our Award No. 5431 (Parker), Award No. 8133 (Smith) and Award No. 14301 (Stark). Finding no palpable error in such decisions we will sustain the claim as presented.

**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 violated.

**A W A R D**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

**ATTEST: S. H. Schulty**  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1969.