



Award Number 17480

Docket Number TE-15794

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerry L. Goodman, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYEES
UNION**

NEW YORK CENTRAL RAILROAD—SOUTHERN DISTRICT

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the New York Central (Southern District), that:

1. Carrier violated the Agreement between the parties when on the 16th day of September, 1964, it permitted Mr. J. F. Douglas, Rules Examiner, to come on phone and give call on SV5.
2. Carrier shall compensate the oldest available man who was on his rest days at Bellefontaine for a day's pay (8 hours) at the rate of \$2.6148, the rate of pay where the violation occurred, per hour.

EMPLOYEES' STATEMENT OF FACTS: On September 16, 1964 at about 9:10 A.M., Mr. John F. Douglas, the rules examiner, contacted the dispatcher at Columbus, Ohio by the use of the dispatcher's phone at BN Office, Bellefontaine, Ohio and during the conversation the dispatcher Mr. J. E. Reed asked Mr. Douglas to give him the call on SV5 Extra 6115 West. Mr. Douglas told him he would get the call for him and about five minutes later Mr. Douglas came back on the dispatcher's phone and gave the call to Mr. Reed.

The call on SV5 transmitted by Mr. Douglas was made a matter of record and entered by the dispatcher on the train sheets. This information is pertinent to the movement of trains as the dispatcher is required to keep the number of hours of duty of each crew member to prevent hours of service violations.

Claim was filed in behalf of the oldest available man on his rest day at Bellefontaine for a day's pay of eight hours at the rate of \$2.6148 per hour.

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

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: On September 16, 1964, regularly assigned second-trick Operator Clerk Dwight Rogers was on duty at BN Yard, Bellefontaine, Ohio, hours 3:00 P.M. to 11:00 P.M.

There was a serious derailment between Turner and Rushsylvania, a short distance east of Bellefontaine, at approximately 6:00 P.M. on September 16, 1964. The rear end of Train MC-2 was derailed and both main tracks were blocked, making it necessary to detour, via Columbus, Ohio, Passenger Train No. 312 and three freight trains out of Collinwood destined for Bellefontaine.

At approximately 8:15 P.M., the Transportation Superintendent, Ohio Central Division, accompanied by Mr. John Douglas, Rules Examiner, stopped at Bellefontaine Yard enroute to the derailment. The Rules Examiner is charged with the responsibility of supervising telegraphers on the Ohio Central Division, and his position is not subject to the rules of any agreement.

The Transportation Superintendent inquired as to whether or not arrangements had been made to secure bulldozers which were necessary for clearing up the derailment, and he was informed that no such arrangements had been made. Operator Clerk Dwight Rogers volunteered the information that he knew the man who owned the bulldozers and where he could be located. The Transportation Superintendent requested Operator Rogers to locate the bulldozer owner.

Just prior to the Operator's departure from the office at approximately 8:40 P.M., he had CS'd westbound Train SV-5—Bellefontaine, Ohio, to Indianapolis, Indiana—at 8:36 P.M., but since he did not have, at that time, the on-duty time and names of the members of the crew, this information was not furnished. Shortly thereafter, or at approximately 9:10 P.M. (approximately 15 minutes before the operator returned), the dispatcher requested this information for the completion of his train sheets. Mr. Douglas contacted the yardmaster, secured the information requested, and relayed it to the dispatcher, which is the basis for the claim progressed here.

OPINION OF BOARD: On September 16, 1964, the regularly assigned second-trick Operator-Clerk was on duty at Bellefontaine, Ohio. Also present were two of Carrier's officials who had stopped en route to a derailment east of Bellefontaine.

One of the officials inquired as to whether arrangements had been made to secure bulldozers which were necessary for clearing up the derailment and was advised no such arrangements had been made. Thereupon, the Operator-Clerk informed Carrier's official he knew the man who owned the bulldozers and where to locate him. Upon hearing this, Carrier's official requested the Operator-Clerk to locate the bulldozer owner which he left to do.

Previously, the Operator-Clerk had OS'd westbound Train SV-5—Bellefontaine, Ohio, to Indianapolis, Indiana but had not furnished the on-duty time and names of the members of the crew. While the Operator-Clerk was on this assigned errand, the dispatcher called requesting this information which Carrier's official obtained and relayed to him.

As a result, a claim was filed on behalf of the oldest available man who was on his rest day at Bellefontaine for a day's pay on the theory that this was a communication of record reserved to the telegraphers under their Scope Rule.

Carrier's highest official designated to handle such matters denies the claim on the grounds that it was not a communication of record.

The issue before us, therefore, is simply whether this message was a communication of record.

Communications of this kind, in order to fit the classification of "communications or reports of record" must have a direct affect on the operation and movement of trains and the safety of persons and property in connection therewith.

The fact that the train in this case was permitted to depart Bellefontaine and was OS'd out of that point by the Operator-Clerk without calling time of the crew and names of members thereof being ascertained persuasive that such information did not have a direct affect on the operation and movement of this train and the safety of persons and property in connection therewith.

The claim is, therefore, denied.

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

That the Agreement was not violated.

A W A R D

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 September 1969.