

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **20271**  
Docket Number CL-20243

Frederick R. **Blackwell**, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station **Employees**  
( (formerly **Transportation-Communication**  
( Division, **BRAC**)

PARTIES TO DISPUTE: (

(George P. Baker, Richard C. Bond, and **Jervis**  
( **Langdon**, Jr., Trustees of the Property of  
( Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brother-  
hood (GL-7313) that:

Docket No. 12658

1. Carrier violated the provisions of the Transportation- **Communi-**  
cations Divisions of BRAC agreement **when** it failed to call **and** use  
the services of Mr. Daddona to perform the duties of block operator  
at Waterbury, Connecticut on his relief days October 11, 12, 18, 19,  
25, and 26, 1971, account blocking being done by other than our craft.

**2. Carrier** shall now compensate Mr. Daddona for the time he has  
claimed in his original time claim for a total of six (6) days at the  
overtime rate of his position as Ticket Agent Operator at Water-  
bury Connecticut.

Docket No. 12660

1. Carrier violated the provisions of the Transportation-C-i-  
cations Division of **BRAC** agreement when it failed to call and use  
the services of **Mr. D. P. Belis** to perform the duties of block  
operator at Waterbury, Connecticut on his relief days October 8,  
**15**, 22 and 29, 1971, account blocking being done by other than **our**  
craft.

2. Carrier shall now compensate Mr. Belis for the time he has  
claimed in his original time claim for a total of four (4) days  
at the overtime rate of his position as operator clerk at Water-  
bury, Connecticut.

Docket No. 12661

1. Carrier violated the provisions of the Transportation- **Communi-** cations Division of BRAC agreement when it failed to call and use the services of **Mr.** L. Bloom to perform the duties of block operator **at** Waterbury, Connecticut on his relief days October **7**, 13, 14, 20, 21, 27, and 29, 1971, account blocking being done by other than our craft.

2. Carrier shall now compensate Mr. Bloom for the time **he** has claimed in his original time claim for a total of seven (7) days at the overtime rate of his position as Operator Clerk, Waterbury, Connecticut.

OPINION OF BOARD: This claim is predicated on the allegation that the scope of the Telegraphers' Agreement **and** the train order rule were violated **when** telegrapher work was improperly performed by employees (conductors) not covered by that Agreement.

Prior to this dispute, the secondary tracks surrounding Waterbury, Connecticut (Watertown, Torrington, and **Terryville**), were under the control of the telegraph operator at Waterbury. Conductors of trains using a block in this system of secondary tracks obtained or cleared the block by **communications** from or to the Waterbury operator. Effective October 7, 1971, control of the secondary track system was transferred **from** the Waterbury operator to the operator at the Control Station in New Haven, Connecticut, under the jurisdiction of the Train Dispatcher, New Haven. Concurrently, the Waterbury Telegraphers **were** designated as Metropolitan Region Employees, because their services exclusively pertained to the passenger service between Waterbury and New York City. Telegrapher service at Waterbury was 7a.m. to **11** p.m., seven days per week, both before and after the transfer of the secondary tracks.

from Waterbury to New Raven. After the transfer to New Haven, crews of trains using the secondary track system were required to obtain, or report clear of, the blocks within the **system by communications** from or to the Operator in New Haven. There is no dispute that train crews (conductors) did **make** such **communications** by phone calls to the **Operator** at New Haven and that a telegraph operator was on duty at Waterbury when the calls were made. (Claim dates coincide with the dates on which conductors made such phone calls.) The parties disagree on the location of the phone used by the conductors, the **Employees** saying within 100 feet of **the** Waterbury operator office and the Carrier saying the phone was a wayside phone approximately one-half mile from the office. However, the **Employees' Rebuttal** states that the phone's location has no bearing on the issue and, accordingly, such Location will not be included in our considerations.

The train order rule reads as follows:

"ARTICLE 20 HANDLING TRAIN ORDERS

(a) No **employee** other than covered by this agreement and train dispatchers will be permitted to handle train orders except in cases of emergency.

(b) If train orders are handled at stations or Locations where an **employee** covered by this agreement is **employed** but not on duty, the **employee**, if available or can be promptly located, will be called to perform such duties and paid under the provisions of Article 7; if available and not called, the **employee will** be compensated as if he has been called."

The **Employees** contend that Article 20 was violated when, before or after using the secondary tracks, the conductors **communicated** by phone with the New Raven **Operator** to obtain, or report clear of, the block; that such phone **communications** constituted the **performance** of "blocking service"; and that the herein Claimants should have been used to perform such service.

The phone communications by **the** conductors do not have the attributes of a train order. The record shows that blocks of the kind involved in this dispute are controlled by the operator of a block station or block-limits station at the entrance of a block; he **may** give a train or engine "verbal permission to enter one block" or, when authorized by the Train Dispatcher, "will issue Clearance Card (Form K) to a train to pass one or more block-limit stations. (Rule 317, Rules for Conducting Transportation) These procedures, which were used in this case, do not involve a train order and, therefore, the train order rule, Article 20, is irrelevant to this dispute.

As to the alleged scope violation, we note that the term "blocking service" is not an accurate term to describe the phone communications by the train conductors. While this term has been used in some prior Awards to refer to similar phone ~~communi~~communications, we believe the leading Award on this general subject, Award No. 6800, places the terminology in better perspective. In pertinent part, that Award states:

"The mere reporting of the position of a train in a given block to the nearest block station is clearly not an infringement upon the telephone work reserved to the telegrapher class. This is the type of ~~communication~~ which before the advent of the telephone would have been given to the operator by a personal trip or messenger. ~~The~~ telephoning of such a report does not constitute blocking of trains because the conductor does not keep a block sheet, nor does he have the right to give a clear block to other trains."

After making it ~~clear~~ that a conductor's ~~communication~~ to an operator in charge of a block does not constitute the "blocking of trains", the Opinion in Award 6800 went on to rule that, in certain circumstances, such a ~~communication~~ was covered by the Telegraphers' Agreement. Consequently, while the conductors' phone calls do not constitute "blocking service", the record does raise the issue of whether the conductors' phone ~~communications~~ to the New Haven ~~Operators~~ was work covered by the Telegraphers' Agreement.

The Employees cite Awards which stem from the "Greenbush Settlement", Award Nos. 6800, 13696, and 17506. The Carrier cites Award Nos. 16304 and 16305. Both parties cite Award Nos. 17501, 17503, 17504, and 17505, each of which sustains ~~claims~~ and denies others. Analytically speaking, the Awards cited by the Employees involve the situation wherein the conductor's ~~communication~~ is made from a phone at station A to an operator at station B; station A is a recognized block station and the communications were made outside of the regular hours of the operator assigned to station A. Thus, the phone ~~communication~~ bypassed station A and the operator at station A was paid a call, apparently on the theory that he should have been called to handle the conductor's need to use the block. The Employees' Awards and the Carrier's Awards are not in conflict, because the Carrier's denial Awards simply hold that such ~~communications~~, when made at points ~~where~~ no telegrapher is regularly assigned, are not covered by the Telegraphers' Agreement. ~~However~~, after a careful study of all of these Awards, we conclude that none of the Awards

apply to the facts of this dispute. Here, the critical fact is that the **communications** were made within the assigned hours of the operators at Waterbury, and the Employees have given no explanation of why the Carrier improperly prevented the Waterbury operators from handling the communications since they were on duty and available to do so. The simple answer to this is that the Waterbury operators, after October 7, 1971, were no longer designated to handle the **communications**, because they were no longer the operators in control of the blocks. The New Haven operators were in control, and the conductors had no reason to use Waterbury operators as intermediaries in their communications about the blocks with New Haven operators. Before October 7, the Waterbury operators performed duties, and made judgments about the blocks, and based thereon sent appropriate **communications** to the conductors desiring to use the blocks. After October 7, the New Haven operators performed the same duties, made the same judgments, and sent similar **communications**. The train conductors did not perform any duties after October 7 that the Waterbury operators performed prior thereto. Indeed, except for the possibility of having spoken directly to the Waterbury operators about using the blocks, as compared with speaking by phone to the New Haven operators, the character of the conductors' **communications** was the same during Waterbury control of the blocks as it was during New Haven control of the blocks. Thus, we conclude that work (control of secondary tracks surrounding Waterbury) once performed by the operators at Waterbury was transferred to the operators at New Haven. Since the Employees have not challenged this transfer as violative of the Agreement, and since they have not shown that any work previously performed by Waterbury operators was performed by the train conductors subsequent to the transfer, there is no basis on which the claim can be sustained. We shall therefore 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**

The Agreement was not violated.

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Claim denied.

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

ATTEST: *A. W. Paulsen*  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of June 1974.