

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 20566
Docket Number CL-20506

William M. Edgett, Referee

(Brotherhood of Railway, Airline and Steamship
(Clerks, Freight Handlers, Express and
(Station **Employees**

PARTIES TO DISPUTE: (
(Maine Central Railroad Company
(Portland Terminal Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (GL-7416) that:

1. Carrier violated Article 10 **para (k)** of the January 1, 1951 Agreement when it neglected to call spare operator **R. W. Starkey** to cover the third trick **Rigby** Telegraph Office April 23, 1972 to copy a record of **communication** for a 6:00 A.M. special train April 24, 1972 in accordance with Article **1** (Scope Rule) of the January 1, 1951 Agreement,

2. Carrier shall be required to compensate Mr. Starkey eight hours pro rata rate of the third trick **Rigby** Telegraph Office for this violation.

OPINION OF BOARD: On April 24, 1972 Carrier ran **an** extra with a high wide load from **Rigby** Yard to St. Johnsbury. The train orders were handled by an employee within the scope of the Agreement. **Written** clearance restrictions were handed to the Train and Engine Crews by the Clearance Engineer.

The question to be decided here is whether the clearance instructions issued for the April 24, 1972 movement were messages of record as that term is used in Article I, Scope. The train orders were, and they were properly handled under the Agreement.

Article I refers to "...**mechanical** machines used for transmitting or receiving **communications** of record...." The clearance restrictions were not sent over a "mechanical machine". There was no **transmission** of them because they were prepared by the office of the Clearance Engineer and the required number of copies were delivered by the Clearance Engineer.

On this record the decision must be that the preparation and delivery of the clearance restrictions did not infringe upon the rights of telegraph service employees.

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: A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 30th day of December 1974.