

NATIONAL RAILROAD ADJUSTMENT BOARD

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THIRD DIVISION

Award Number **23316**

Docket Number CL-23289

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and Steamship Clerks,
(~~Freight Handlers~~, Express and Station Employees
(The ~~Baltimore~~ and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of ~~the~~ System ~~Committee~~ of the Brotherhood (GL-8963) that:

(1) ~~Carrier violated~~ the Clerk-Telegrapher ~~Agreement~~ when, on March 9 and 10, 1977, it required and ~~permitted~~ train service employees not covered by the ~~Agreement~~, while ~~performing~~ flagging duties at Mile Post 304, ~~Robbins~~, Pennsylvania, to ~~use~~ the telephone for ~~the~~ purpose of securing train location ~~information~~ for the protection of workmen, equipment: ~~and/or~~ material of the West Penn Power Company, and

(2) Because ~~of such impropriety~~, Carrier shall compensate ~~Operators~~ A. E. Albins and J. V. Stofan ~~eight~~ (8) hours' pay (\$51.09) for the dates of March 9 and 10, 1977, ~~respectively~~.

OPINION OF BOARD: ~~Petitioner alleges~~ a violation of Rules No. 1 - Scope - and No. 66 of the ~~June 4, 1973 Agreement~~ between the parties. On March 9 and 10, 1977 Carrier ~~utilized~~ a train service ~~employee~~ to provide ~~flagging protection~~ at ~~Robbins~~, Pennsylvania, where an electric power company was engaged in stringing electric wires across Carrier's right of way. During his tours of duty, the ~~train service employee~~ used a telephone to contact the claimant operators to obtain train movement information concerning the area in which he was assigned. ~~Petitioner~~ argues that an ~~employee~~ covered by the Clerical Rules ~~Agreement~~ should have been used to perform the service in dispute.

These ~~parties~~ have advanced these ~~arguments~~ involving these same rules in three prior disputes. Those disputes have resulted in Docket No. 87 of Special Board of Adjustment No. 355 and Award Nos. 21786 and 21946 of this Division. All of ~~these decisions have been adverse~~ to petitioner's pleadings. ~~There~~ is nothing new from petitioner in this case that was not addressed in the prior awards. We agree with the conclusions reached in those awards.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, ~~finds~~ and holds:

Award **Number** 23316
Docket Number CL-23289

Page 2

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. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 19th day of **June 1981**.

