

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
ALABAMA, TENNESSEE AND NORTHERN RAILROAD
CORPORATION

STATEMENT OF CLAIM: "Claim of the General Committee of The Order of Railroad Telegraphers on Alabama, Tennessee and Northern Railroad Corporation that C. L. Ware, regularly assigned as agent-telegrapher at Chatom, Alabama, be paid for a call under the provisions of Article 14, of Telegraphers' agreement, for train orders No. 12, 14 and 15, copied at Chatom on April 7, 1938, by Conductor Pruitt."

JOINT STATEMENT OF FACTS: "First: It is agreed that there is an agreement existing between the Alabama, Tennessee & Northern Railroad Corporation and its Agents and Operators represented by The Order of Railroad Telegraphers.

"Second: That Article 14, of said agreement, reads as follows:

'Handling of Train Orders

'No employe other than covered by this schedule and train dispatchers will be permitted to handle train orders at telegraph or telephone offices where an operator is employed, can be promptly located and is available, except in an emergency, in which case the operator will be notified and paid for the call.'

"Third: Miss C. L. Ware is the regularly assigned agent-telegrapher at Chatom, Alabama, a position created in telegraphers' agreement. The assigned hours of that position are 8:00 A. M. to 5:00 P. M.

"Fourth: No. 35 is a regular schedule local freight train, and when operating on time is due at Chatom at 8:18 A. M., as shown by current time table No. 43, copy attached, marked Exhibit A.

"Fifth: That on April 7, 1938, the weather was very stormy, heavy rains occurring all over this district, and that on account of the weather conditions this train, No. 35, did not arrive at Chatom until approximately 7:10 P. M., April 7, 1938.

"Sixth: That Conductor Pruitt, who was in charge of train No. 35, copied form 19, Order Nos. 12, 14 and 15, completing them at 7:18 P. M., 7:21 P. M. and 7:27 P. M."

The employes contend that the exception to Article 14, quoted, permits employes other than those covered by Telegraphers' agreement to handle train orders at a telegraph or telephone office where an operator is employed, only in an emergency, when the assigned agent or operator is not

available or cannot be promptly located; but if the operator is available and can be promptly located, he is entitled to be paid for the call, if not used, just as though he had been used. The employees show that on this occasion the operator was available in her room at the hotel, 650 ft. from the station and ready to respond to a call at the time these orders were taken.

The carrier contends that it is the purpose of the rule to provide payment for the assigned agent or operator in the event that employes other than those covered by Telegraphers' agreement copy train orders when no emergency exists, but that the rule does not contemplate such payment in case of an emergency. The carrier further contends that the conductor in this case apprehended that the wires would go out; therefore, the time in which he might secure orders for his train was limited and for that reason the operator at this station could not be considered available. It is further shown that the wires did actually go out very shortly after the last order was completed.

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

That the carrier and the employe involved in this dispute are respectively carrier and employe 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 rule provides for the payment of a call to the assigned agent or operator who is available and can be promptly located under the conditions here shown to exist, and the claim of the employe should, therefore, be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division.

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 4th day of November, 1938.