

Award No. 4928
Docket No. TE-4967

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Robert O. Boyd, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
THE PITTSBURGH & WEST VIRGINIA RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Pittsburgh & West Virginia Railway Company that:

(1) the Carrier violated the terms of the agreement effective November 1, 1936, between the parties when on each date November 22, 24, 27, 28, 30 and December 1, 1946, it permitted or required employes outside of the scope of said agreement to handle (copy) train orders at Clairton, Pa., and

(2) as a result of this violative act the agent-telegrapher at Clairton shall be compensated in accordance with Article III-(c) (Call) on each of the days designated in paragraph 1, of which he was improperly deprived.

EMPLOYES' STATEMENT OF FACTS: An agreement bearing effective date of November 1, 1936, governing rates of pay and rules of working conditions is in effect between the parties to this dispute.

Clairton, Pa., is a station on the Carrier's railroad located at the end of a branch line approximately three miles from junction with the main line. There is employed at this station one agent-telephoner under the agreement with assigned hours 9:30 A.M. to 6:30 P.M. one hour out for lunch, daily except Sundays, and 4:00 P.M. to 6:00 P.M. on Sundays.

On November 22, 24, 27, 28, 30 and December 1, 1946, the Carrier permitted or required Conductors of trains turning at Clairton for return trip, to handle (copy) train orders transmitted to them by the train dispatcher through the Operator at Longview, Pa., at times when the agent-telephoner employed at that station was not assigned to duty.

For ready reference copies of such orders, showing the date, time and employes handling same are here reproduced below:

Train Order No. 71

Rook, Pa. 11-22-46

To C&E No. 90
and Eng 925 via Longview

At Longview, Pa.
At Clairton, Pa.

Eng 925 run extra Clairton to West Liberty and has right over
No. Ninety 90 Eng 1104 Pierce to Longview and wait at Pierce until

This claim is an attempt on the part of the Employees to obtain a rule which would require any train working at an outlying side track, blind siding, or any other point where a Telegrapher is not on duty, to be accompanied by an employe coming within the Scope of the Telegraphers' Agreement, if it is necessary to secure a train order. Obviously, it is necessary for trains to secure train orders at points where no Telegrapher is on duty, and clearly, it was not the intent of the Scope Rule to require a Telegrapher at every point on this railroad where train orders must of necessity be received by train crews. If this were carried to an extreme, it would mean that practically every train would require an unnecessary Telegrapher in addition to the qualified members of the train crew, to handle train orders, even though the train orders were relayed through a Telegrapher. We should again point out that, in all of these cases, the train orders in question were first transmitted by the Dispatcher to a Telegrapher, who in turn relayed them to the train Conductor, at points and at a time when no Telegrapher was on duty or ever had been on duty during the hours involved.

We would also like to point out Award No. 4259. In this case a Conductor copied train orders at a "blind siding" directly from the train dispatcher. This claim was denied. On this railroad a "blind siding" indicates a point where no employes are on duty, which was the case at Clairton when these train orders were relayed from a Telegrapher, an employe coming within the Scope of the Agreement, to the train Conductor. Therefore, we feel that the principles expressed in the Opinion of the Board in that case would also apply in this case.

In conclusion the Carrier must state that the claim as presented should be denied for the following reasons:

1. The Employees in their claim have failed to cite any rule of the current Agreement which the Carrier has violated. Even though past and present practice, and acquiescence over a long period of years establishes the intent of the Agreement, they now claim that it has been violated with nothing specific to substantiated it.

2. More than thirty years of practice and ten years of mutual interpretation of the present Scope Rule sustains the Carrier's position.

3. This claim is an attempt on the part of the Employees to require the Carrier to create numerous unnecessary positions which would impair the efficiency and with consequent excessive cost of operation. In the present claim, there is normally only one train each day to Clairton. This train requires one train order each day. If this claim should be sustained and it would be required to install a second position of telegrapher at Clairton, he would have this one train order to copy each day with no other work. Were this principle established by sustaining this claim, it would also be necessary to establish positions at many other points with the same ridiculously little amount of work to be performed.

For the reasons set forth above, the Carrier respectfully requests that the Board deny the claims of the Employees.

OPINION OF THE BOARD: The issue raised by the facts set forth in the submissions is the same as in Award Nos. 4923, 4925 and 4926. The reasons expressed in the Opinion of the Board in these cases are applicable here. Also see Award 3521.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees 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 Carrier violated the Agreement.

AWARD

Claims (1) and (2) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 20th day of July, 1950.