

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Peter M. Kelliher, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of The General Committee of The Order of Railroad Telegraphers on The Pennsylvania Railroad; that,

1. On Saturday, August 20, 1949, W. J. Hartpence, Extra Train Director, "Fair" Tower, Trenton, N. J., was improperly removed from service without just cause and, therefore withheld from service seven (7) days in violation of the current agreement and later given seven (7) days suspension for an alleged offense; and
2. W. J. Hartpence shall be compensated for the time held out of service and in addition thereto compensated for days traveling to New York in connection with the alleged offense and his record cleared accordingly.

OPINION OF BOARD: Although a conflict of testimony exists, the Claimant did violate Supplemental Instruction 4120 to the Operating, Signal and Interlocking Rules. The Claimant's testimony at the August 24, 1949 investigation is in part as follows:

"* * * I went back on the bridge line with Conductor Van Norman and said, 'stay in the clear and give me a call at 11:22 A. M. Conductor Van Norman replied, 'you mean after the Nellie leaves.' I said, 'no that 2569 leaves Trenton at 11:20 A. M. I said, 'and besides if the Roebling Drill comes up, the Dispatcher wants you to get out of his way.' Conductor Van Norman replied, 'O.K.'"

The Trial Record shows that the Claimant further testified under Exhibit "D":

"Q. After Conductor Van Norman repeated the instructions what did he say to you?

"A. Conductor Van Norman did not repeat the instructions the way I gave them to him, he merely said OK.

"Q. Did you make any comment on the manner in which he acknowledged the conversation?

"A. No, sir."

Supplemental Instruction 4120 reads in part as follows:

"Employees using telephones of trainphones in connection with train movements must satisfy themselves that they are in communication with the proper persons and must not consider conversation finished until **the persons taking part are assured that they heard all of the conversation and that it is understood.** * * *"

"Verbal arrangements and instructions in regard of trains being clear of, or desiring to occupy certain tracks, etc., **must be repeated by the person receiving the information.** (Emphasis supplied.)"

The Claimant was using the telephone "in connection with train movements" and he should not have considered the "conversation finished" until he was "assured" that the Conductor "understood". The conversation related to "arrangements and instructions in regard of trains being clear of, or desiring to occupy certain tracks." The only method of knowing that the "conversation" was understood was prescribed in the Instruction to be that the "arrangements" must "be repeated by the person receiving the information."

Claimant admits that the Conductor did not repeat the "instructions" and that he did not make any comment to the Conductor "on the manner in which he acknowledged the conversation."

The Board must find that both individuals involved in the misunderstanding failed to comply with Supplemental Instruction 4120, which was specifically designed to prevent such a situation as occurred in this case.

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 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

That the Agreement has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1953.