

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jay S. Parker, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

BOSTON & MAINE RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Boston and Maine Railroad, that:

1. The Carrier violated the Agreement when beginning with July 5, 1951 and continuing on each succeeding day it required or permitted conductors to copy and handle Train Register Clearance Order Form 54 at Salisbury, Massachusetts, a station where no telegrapher is now assigned.
2. In consequence of this violation the Carrier shall pay the senior idle spare employe an amount equivalent to one day's pay of eight (8) hours at the prevailing rate for each day the violation occurs, beginning on July 5, 1951, and continuing until the violation is corrected.

EMPLOYES' STATEMENT OF FACTS: Salisbury, Massachusetts is a junction point on the Boston and Maine Railroad located 39.32 miles from Boston and 17.59 miles from Portsmouth. The Amesbury Branch extends from Salisbury to Amesbury, Massachusetts, a distance of 3.85 miles. A daily non-scheduled local freight train makes a round-trip between Boston and Amesbury. Prior to May 15, 1950, there was a position of agent-operator located at Salisbury, whose duty it was to perform the agency and communicating work accruing at that point. The Carrier has operating rules regulating the entrance and exit from the Amesbury Branch at Salisbury and in particular Rule 83 which requires conductors to have a train register clearance before permitting these trains to enter the main line at junction points.

Prior to May 15, 1950, the conductor of the local freight here in question obtained his train register clearance orders from the agent-operator at Salisbury. Effective on or about this date the Carrier declared the agent-operator's position at Salisbury abolished and thereafter the conductor began the use of the telephone in copying this clearance order himself. On June 10, 1951, this practice became known to Local Chairman Brill who protested to Supt. Came, mentioning that such practice was a violation, and if continued would result in claims.

On July 9, 1951, Supt. Came wrote Local Chairman Brill as follows:

"Promptly upon receipt of your letter of June 10th arrangements were made whereby on the occasion when the Local requires a

[936]

that time off duty on account of sickness, disability, or leave of absence, shall extend the time limit specified by period of such time off duty".

The Claimant has made no specific claim or any specific date wherein the alleged violation occurred. The Claimant has not attempted to comply with Article 22 (b) of the Agreement and they have dated their claim back to the date of July 5, 1951, again ignoring the provisions of Article 22 (e).

Furthermore, the claim is not an "amended claim"; it is the same claim declined originally and which became outlawed.

for record purposes. It is conceded that during such process the Conductor repeats the communication received to the operator at Newburyport and the Dispatcher then OK's the authority so granted to such operator.

On December 11, 1951, following conferences regarding the procedure placed in force and effect by Carrier a claim was filed by the Organization on behalf of the senior, idle, spare employe for one day's pay at the prevailing rate for July 5, 28; August 8; September 1, 21; Oct. 6, 27; Nov. 10 and 17, all in 1951, and for continuing dates until corrected, on the theory Carrier's action as aforesaid was in violation of the Current Agreement. This claim was progressed on the property through proper channels and finally, after appeal, was denied on January 18, 1952, by Carrier's highest reviewing officer. Subsequently, and on October 21, 1952, the Organization filed what it termed an amended claim in substantially the same form. Ultimately this amended claim was progressed to and denied by the Carrier's highest reviewing officer who stated in substance that the same claim had been originally denied by him on January 18, 1952, hence the amended claim was being declined and denied upon that premise.

Consummation of the factual picture requires some reference to the contents of Form 54, as well as Carrier's operational requirements, and conditions existing on the property with respect thereto prior to and after execution of the Current Agreement.

One of the few things of record about which the parties do not quibble and equivocate is the context of Form 54 both before and after execution. Claimant attaches several of these forms to its ex parte submission and states, without denial on the part of the Carrier, that they are reproduction of Clearance Orders Form 54 copied by Conductors at Salisbury. We have selected one of the divers forms so reproduced at random, all of which we pause to note are of like import except for differences in dates and other matters of no consequence. It reads:

"Boston and Maine Railroad
Train Register Clearance—Form 54

No. 49

Aug. 8, 1951

To C&E X 1116 At Salisbury

All trains which are superior, or of the same class due at (Salisbury) before 1:03 P. M., have arrived or left Salisbury.

If any train affecting the superiority of the train addressed has not arrived or departed, the following will be added:

Except No.

CAC Supt.

Received by
Castleton, Operator

This form to be used when it is desired that the train dispatcher give a train the information required by Rule 83. (See Rule 83b.)

Manifold copies will be made for conductor, engineman and operator, the latter retaining a copy.

1-31-100M"

Explanatory of the foregoing form it may be said the terms "To C & E X 1116" as used therein have reference to the Conductor and Engineman of the involved extra train and that it is clear the destination of the information therein contained is Salisbury. It may also be stated that, from a factual standpoint although they are in dispute as to the force and effect to be attributed to Form 54, both parties agree it is necessary for the local freight to receive authority under such form upon arriving at Salisbury from Amesbury before proceeding on to Boston. In addition it is to be noted that