

Award No. 9221
Docket No. TE-8375

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Roscoe G. Hornbeck, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
AND THE LAKE ERIE & EASTERN RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Pittsburgh & Lake Erie Railroad (The Lake Erie & Eastern Railroad) that:

1. Carrier violated the agreement between the parties hereto when on the dates, at the times and in the manner here-in-below set out it caused, required or permitted train and yard service employes to transmit and/or receive communications reserved, solely and exclusively, for handling by employes covered by the Telegraphers' Agreement:

January 5, 1955 (7 claims) from East Youngstown—East Youngstown Yard District.

(1) 1:25 A. M., Conductor J. Braunstahl in charge of Extra East, Engines 5732-5714, received the following instructions from Yardmaster at Aliquippa: "Move I Pgh and 34 DU from QA, 96 cars still back at Blacks Run so I will probably have 25 or 30 more for you."

(2) 4:32 A. M., Conductor R. S. Halley, in charge Extra East, Engines 5717-5731, called the Yardmaster at Aliquippa and received the following instructions: "Set 120 hoppers off on Nos. 6 and 7 tracks at QA and move 7 Montour and 20 KS off No. 19 track."

(3) 6:47 A. M., Conductor Simmons, No. 78, called Yardmaster at New Castle Junction and received the following instructions: "Move 2 Homestead off No. 14 track."

(4) 6:49 A. M., Conductor Simmons, No. 78, called Yardmaster at College and received the following instructions: "Move 5 Demmler off No. 3 Track."

(5) 6:50 A. M., Conductor Simmons, No. 78, called Yardmaster Aliquippa and received the following instructions: "Move 8 Homestead and 19 Demmler off No. 21 Track."

(6) 11:48 P. M., Conductor M. Amber, Extra East, Engines 5715-5713, called Yardmaster New Castle Junction and received the following instructions: "Set 5 cars off on No. 11 Track and pick up 1 College and cut to make."

(7) 11:50 P. M., Conductor M. Amber, Extra East, Engines 5715-5713, called Yardmaster Aliquippa, and received the following instructions: "Set 25 cars off on No. 14 Track at QA."

January 11, 1955 (2 claims)

(8) 11:00 P. M., Conductor Curran, Extra East, Engines 5677-5729, received from Yardmaster New Castle Junction the following instructions: "Set 31 Erie East off on No. 17 Track."

(9) 11:02 P. M., Conductor Curran, Extra East, Engines 5677-5729, received from Yardmaster, Aliquippa the following instructions: "Set 8 QA cars off on No. 13 Track."

January 12, 1955 (3 claims)

(10) 1:47 A. M., Conductor M. Amber, No. 74, received from Yardmaster, New Castle Junction the following instructions: "Move 1 Pgh from No. 15 Track."

(11) 4:41 A. M., Conductor Cyphers, No. 78, received from Yardmaster Aliquippa the following instructions: "Back 17 QA cars off on No. 12 Track and move 21 DU Frt from No. 21 Track."

(12) 6:54 A. M., Conductor J. Braunstahl, Extra East, Engines 5720-5727, received from Yardmaster, Aliquippa the following instructions: "Set off on No. 4 and 6 at QA."

January 21, 1955 (1 claim) from Port Perry Yard.

(13) 4:30 A. M., when Yardmaster located in Port Perry Yard transmitted to Operator at MA office McKees Rocks, the following message addressed to Conductor J. L. Martin, No. 90: "Set off on Demmler transfer."

January 26, 1955 (1 claim) from East Youngstown—East Youngstown Yard District.

(14) 12:50 A. M., Conductor W. P. Keefer, called Yardmaster College Yard District and received the following instructions: "Move 1 Demmler from No. 1 Track."

January 27, 1955 (1 claim)

(15) 4:30 A. M., Conductor E. D. McCloskey, Extra East, Engines 5733-5724, called Yardmaster Aliquippa and received the following instructions: "Set off on No. 13 Track and pick up 62 cars in the old yard."

February 1, 1955 (1 claim)

(16) 10:52 P. M., Conductor M. F. Wadowski, Extra East, Engines 8357-8354, called Yardmaster New Castle Junction and received the following instructions: "Set out your 29 Erie East off on No. 17 Track."

February 2, 1955 (6 claims)

(17) 12:43 A. M., Conductor M. C. Cumberland, No. 74, called Yardmaster New Castle Junction and received the following instructions: "Move 1 car off No. 14 Track."

(18) 1:09 A. M., Conductor H. O. Broders, No. 90, called Yardmaster College and received the following instructions: "Move 3 Demmlers off No. 1 Track."

(19) 1:11 A. M., Conductor H. O. Broders, No. 90, called Yardmaster Aliquippa and received the following instructions: "Move 3 Western Maryland off No. 2 Track."

(20) 4:25 A. M., Conductor W. P. Keefer, Extra East, Engines 5729-5727, called Yardmaster New Castle Junction and received the following instructions: "Set the 14 cars off on No. 17 Track."

(21) 4:26 A. M., Conductor W. P. Keefer, Extra East, Engines 5729-5727, called Yardmaster College and received the following instructions: "Move 4 Aliquippa cars off No. 1 Track."

(22) 4:28 A. M., Conductor W. P. Keefer, Extra East, Engines 5729-5727, called Yardmaster Aliquippa and received the following instructions: "Set 23 cars off on No. 12 Track and move 28 cars off No. 17 Track."

February 4, 1955 (1 claim) from WE West Economy—Aliquippa Yard District.

(23) 11:25 A. M., Conductor, Extra East, Engine 8353, received the following instructions from Yardmaster Ivanhoe Yard: "Set off on No. 1 Track and engine to come back No. 7 Track."

February 9, 1955 (2 claims) East Youngstown—East Youngstown Yard District.

(24) 12:53 A. M., Conductor M. Amber, Engines 5678-5718, called Yardmaster College Yard District and received the following instructions: "Do not fill out at College."

(25) 2:09 A. M., Conductor Broders, Extra East, called Yardmaster Aliquippa Yard District and received the following instructions: "Move 1 Pgh and 54 DU from No. 22 Track."

February 23, 1955 (3 claims)

(26) 2:27 A. M., Conductor G. A. Brunner, No. 74, called Yardmaster College Yard District and received the following instructions: "Move 2 Pgh off No. 3 Track with a cut."

(27) 2:31 A. M., Conductor G. A. Brunner, No. 74, called Yardmaster, Pittsburgh Yard District and received the following instructions: "Set 32 cars off Nos. 8 and 7 at Pgh."

(28) 2:32 A. M., Conductor G. A. Brunner, No. 74, called Yardmaster Pittsburgh (Becks Run) Yard District and received the following instructions: "Set 95 cars off on No. 3 East."

March 1, 1955 (1 claim)

(29) 11:47 P. M., Conductor W. B. Gruber, Extra East, Engines 5726-5720, called Yardmaster Aliquippa Yard District and received the following instructions: "Set 49 cars of ore off on No. 6 Track."

March 2, 1955 (9 claims)

(30) 2:48 A. M., Conductor J. W. Cyphers, Extra East, Engines 5678-5736, called Yardmaster, College Yard District and received the following instructions: "Move 1 Demmler off No. 4 coach track."

(31) 12:16 A. M., Conductor J. Quinett, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set 1 New Castle car off on No. 16 Track."

(32) 12:19 A. M., Conductor J. Quinett, No. 90, called Yardmaster Aliquippa Yard District and received the following instructions: "Move 2 Western Maryland off No. 19 Track."

(33) 12:47 A. M., Conductor McCann, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 3 Pgh and 23 DU from No. 24 Track. Have about 100 cars back so I will have more for you."

(34) 4:13 A. M., Conductor G. J. Pickering, Extra East, Engines 8354-8353, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 2 QA and 5 KS off No. 12 Track, no cut."

(35) 4:15 A. M., Conductor G. J. Pickering, Extra East, Engines 8354-8353, called Yardmaster, College Yard District and received the following instructions: "Move 4 Ivanhoe and 3 KS off No. 3 Track, no cut."

(36) 4:16 A. M., Conductor G. J. Pickering, Extra East, Engines 8354-8353, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set 14 cars off on No. 7 ore yard and move 3 Ivanhoe and 19 KS off No. 18 Track."

(37) 6:51 A. M., Conductor C. M. Curran, Extra East, Engines 5676-5715, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set 101 hoppers off on Nos. 2 and 5 Tracks."

(38) 9:20 P. M., Conductor S. E. Shipley, Extra East, Engines 5734-8356, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set 22 sinter ore off on No. 14 Track."

March 3, 1955 (1 claim)

(39) 10:45 P. M., Conductor M. C. Cumberland, Stone Run East, Engines 5676-5677, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set 18 Erie East off on No. 17 Track."

March 4, 1955 (2 claims)

(40) 1:30 A. M., Conductor S. E. Shipley, No. 90, Engines 5714-5796, called Yardmaster, College Yard District and received the following instructions: "Pick up 2 Western Maryland off No. 1 Track."

(41) 1:33 A. M., Conductor S. E. Shipley, No. 90, called Yardmaster Aliquippa Yard District and received the following instructions: "Pick up 3 WM-6 off No. 19 Track."

March 9, 1955 (5 claims)

(42) 1:11 A. M., Conductor J. W. Cyphers, No. 74, called Yardmaster, College Yard District and received the following instructions: "Move 4 Pgh off No. 3 Track."

(43) 1:12 A. M., Conductor J. W. Cyphers, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 3 Pgh and 23 DU off 23 Track."

(44) 12:40 A.M., Conductor S. E. Shipley, No. 90, called Yardmaster, College Yard District and received the following instructions: "Move 1 WM-6 and 1 DM off No. 3 Track."

(45) 12:14 A.M., Conductor S. E. Shipley, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 3 Western Maryland off No. 24 Track."

(46) 3:37 A.M., Conductor Braunstahl, Extra East, Engines 5715-5713, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set 30 cars off on No. 13 Track."

March 11, 1955 (1 claim) from Aliquippa Yard District.

(47) 11:16 A.M., Yardmaster, Aliquippa Yard District called Yardmaster College Yard District and received the following instructions: "Out the lead, back No. 4 pick up 7 New Castle," and delivered such message to Conductor V. J. Walters, No. 209, while he was still in Aliquippa Yard District.

March 14, 1955 (1 claim) from McKees Rocks Yard District.

(48) 7:01 P.M., Conductor E. A. Wingrove, No. 92, called Yardmaster, Dickerson Run Yard District and received the following instructions: "Set your 131 Dickerson Run cars off on No. 21 Track and double to No. 22 if you have to."

March 15, 1955 (1 claim)

(49) 6:59 P.M., Conductor Nicholson, No. 92, called Yardmaster, Dickerson Run Yard District and received the following instructions: "Set your 132 cars for Dickerson Run off on No. 22 Track and double."

March 15, 1955 (1 claim) from East Youngstown—East Youngstown Yard District.

(50) 1:50 A.M., Conductor M. F. Wadowski, No. 74, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set the 4 New Castle cars off on No. 15 Track."

March 16, 1955 (7 claims)

(51) 12:21 A.M., Conductor Brunstahl, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 2 WM off No. 22 Track."

(52) 1:27 A.M., Conductor C. M. Curran, No. 74, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 Pgh off 13 with a cut."

(53) 2:25 A. M., Conductor E. D. McClusky, Extra East, Engines 5677-5679, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 6 KS off 16 Track."

(54) 2:29 A. M., Conductor E. D. McClusky, Extra East, Engines 5677-5679, called Yardmaster, College Yard District and received the following instructions: "Move 1 MR and 1 KS off No. 3 Track."

(55) 2:37 A. M., Conductor E. D. McClusky, Extra East, Engines 5677-5679, called Yardmaster, McKees Rocks Yard District and received the following instructions: "Pull up the CH and set 8 KS cars off on 3 East."

(56) 5:04 A. M., Conductor W. P. Keefer, No. 78, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 Homestead off No. 13 Track."

(57) 5:06 A. M., Conductor W. P. Keefer, No. 78, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 14 Homestead and 16 Demmler off No. 19 Track."

March 22, 1955 (2 claims)

(58) 11:30 P. M., Conductor W. B. Gruber, Ore Special Engines 5717-8357, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set off 31 ore on No. 5 Track."

(59) 11:56 P. M., Conductor W. P. Keefer, Extra East, Engines 5729-5676, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set 20 Erie East off on No. 17 Track."

March 23, 1955 (4 claims)

(60) 12:56 A. M., Conductor Stadler, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 9 KS cars off No. 14 Track, no cut."

(61) 12:58 A. M., Conductor Stadler, No. 90, called Yardmaster, College Yard District and received the following instructions: "Move 1 WM-6 off No. 3 Track with a cut."

(62) 1:03 A. M., Conductor Stadler, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 5 Western Maryland off No. 20 Track."

(63) 1:57 A. M., Conductor C. M. Curran, No. 74, called Yardmaster, College Yard District and received the following instructions: "Move 1 car off No. 3 Track with a cut."

March 30, 1955 (5 claims)

(64) 12:56 A. M., Conductor Stadler, No. 90, called Yardmaster, College Yard District and received the following instructions: "Move 1 WM-6 off No. 1 Track."

(65) 12:58 A. M., Conductor Stadler, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 7 Western Maryland off No. 22 Track."

(66) 1:49 A. M., Conductor C. M. Curran, No. 74, called Yardmaster New Castle Junction Yard District and received the following instructions: "Move 1 Pgh off No. 14 Track."

(67) 4:03 A. M., Conductor S. E. Shipley, 2nd 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 58 DU off No. 24 Track."

(68) 6:04 A. M., Conductor V. J. Walters, Extra East, Engines 5680-5720, called Yardmaster Aliquippa Yard District and received the following instructions: "Set 68 hoppers off on No. 1 Yard Track and move 11 Homestead and 16 Demmler off No. 21 Track."

March 31, 1955 (3 claims)

(69) 12:40 A. M., Conductor R. T. Lynch, No. 90, called Operator at QA Tower in Aliquippa Yard District and received the following instructions: "Move 5 Western Maryland off No. 23 Track."

(70) 2:20 A. M., Conductor G. J. Pickering, No. 74, called Yardmaster New Castle Junction Yard District and received the following instructions: "Move 1 Pgh off No. 14 Track with a cut to make."

(71) 2:25 A. M., Conductor G. J. Pickering, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 7 Pgh and 57 DU off No. 24 Track, yard engine is going to work your train."

April 5, 1955 (2 claims)

(72) 3:15 A. M., Conductor McCann, No. 74, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 2 Pgh and 3 DU off No. 16, cut to make."

(73) 3:20 A. M., Conductor McCann, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "You will get 3 Pgh and 47 DU, the yard engine will cut your fill out into your train."

April 6, 1955 (4 claims)

(74) 4:24 A. M., Conductor E. D. McCluskey, Extra East, Engines 5719-5735, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set 59 cars off on 1 Yard, move 61 DU off No. 19 Track."

(75) 3:57 A. M., Conductor R. T. Lynch, No. 74, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 5 Pgh off No. 13, no cut."

(76) 3:59 A. M., Conductor R. T. Lynch, No. 74, called Yardmaster, College Yard District and received the following instructions: "Move 2 Pgh off No. 3 with a cut."

(77) 4:00 A. M., Conductor R. T. Lynch, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 13 Pgh off No. 25 Track."

April 22, 1955 (1 claim)

(78) 12:50 A. M., Conductor R. B. Humphries, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 2 KS off No. 13 Track, with a cut to make."

April 27, 1955 (1 claim)

(79) 11:19 P. M., Conductor W. P. Keefer, Extra East, Engines 5732-5684, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set off 58 cars in new yard."

May 4, 1955 (1 claim)

(80) 11:27 P. M., Conductor Stader, Extra East, Engines 5723-5679, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set off on No. 17 and pick up 3 Aliquippa off No. 13."

May 5, 1955 (1 claim)

(81) 12:50 A. M., Conductor McCloskey, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Pick up 1 Western Maryland off No. 14 Track and cut to make."

May 17, 1955 (1 claim)

(82) 1:35 P. M., Conductor Wingrove, Extra East, Engine 5676, called Yardmaster, Homestead (Pittsburgh Yard District) and received the following instructions: "Pick up 12 College cars off No. 7 Track with the bills on the West car."

May 23 (1955 (1 claim) East Youngstown—East Youngstown Yard District.

(83) 3:40 A.M., Conductor J. W. Cyphers, No. 74, called Yardmaster, New Castle (New Castle Yard Limits) and received the following instructions: "Pick up 1 car off No. 14 Track."

June 1, 1955 (1 claim)

(84) 12:15 A.M., Conductor J. W. McCann, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 WM off East end of 16 with a cut to make."

June 4, 1955 (1 claim)

(85) 11:26 A.M., Conductor DeVault, Extra East, Engines 5715-5718, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set 9 cars off on No. 16 Track."

June 13, 1955 (1 claim)

(86) 12:26 P.M., Conductor Cyphers, Extra East, Engines 5717-5713, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set your 2 cars off on No. 17 Track."

June 14, 1955 (1 claim)

(87) 1:01 A.M., Conductor M. C. Cumberland, No. 74, called Yardmaster New Castle Yard District and received the following instructions: "Move 2 Pgh off No. 14 Track with a cut."

June 16, 1955 (2 claims)

(88) 12:30 A.M., Conductor M. C. Cumberland, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 WM off No. 12 with a cut."

(89) 2:45 A.M., Conductor J. W. Cyphers, Extra East, called Yardmaster, Aliquippa Yard District and received the following instructions: "Pull in on No. 1 double to No. 2 pick up 32 DU's off No. 4."

June 18, 1955 (1 claim)

(90) 9:06 A.M., Conductor Rebeck, No. 78, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Pick up 2 Homestead off No. 15 Track."

June 26, 1955 (1 claim)

(91) 12:08 P. M., Conductor Shipley, Extra East, Engines 5719-5727, called Yardmaster, Aliquippa Yard District and received the following instructions: "Pull to No. 4 and double to No. 2 with your 124 QA ore."

June 29, 1955 (3 claims)

(92) 2:01 A. M., Conductor Curran, No. 74, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 Pgh off No. 13 Track with a cut to make."

(93) 12:50 A. M., Conductor Keefer, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 Western Maryland off No. 13 Track."

(94) 12:52 A. M., Conductor Keefer, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 10 Western Maryland frt. off No. 19 Track."

July 6, 1955 (2 claims)

(95) 12:35 A. M., Conductor W. B. Gruber, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set the 1 car of beer off on No. 16 Track."

(96) 3:12 A. M., Conductor J. W. McCann, Extra East, Engines 8356-8354, called Yardmaster, Aliquippa Yard District and received the following instructions: "Pull your 120 ore in on No. 6 and double to 2 back 8 for caboose."

July 8, 1955 (3 claims)

(97) 1:20 A. M., Conductor R. S. Halley, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 WM-6 off No. 16 Track with cut."

(98) 1:22 A. M., Conductor R. S. Halley, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 5 WM off No. 19 Track."

(99) 1:30 A. M., Conductor V. J. Walters, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 20 Pittsburgh off No. 18 Track."

July 13, 1955 (1 claim)

(100) 5:56 A. M., Conductor McCloskey, Extra East, Engines 5734-5732, called Yardmaster, Aliquippa Yard District and received the following instructions: "Pull your 114 ore in on Nos. 1, 5 and 8 Tracks."

July 19, 1955 (2 claims)

(101) 11:35 P. M., Conductor Puffenbarger, Extra East, Engines 8356-8354, called Yardmaster, College Yard District and received the following instructions: "Move 24 Aliquippa off No. 2 Track."

(102) 11:37 P. M., Conductor Puffenbarger, Extra East, Engines 8356-8354, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Set 36 cars off on No. 17 Track."

July 20, 1955 (2 claims)

(103) 12:36 A. M., Conductor Brill, No. 90, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 Demmler off east end of No. 16 Track."

(104) 12:40 A. M., Conductor Brill, No. 90, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 7 Western Maryland off No. 23 Track."

August 3, 1955 (4 claims)

(105) 12:16 A. M., Conductor Simmons, No. 74, called Yardmaster, New Castle Junction Yard District and received the following instructions: "Move 1 Pgh off No. 16 Track."

(106) 12:21 A. M., Conductor Simmons, No. 74, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 21 Pgh off No. 21 Track."

(107) 4:52 A. M., Conductor Walters, No. 78, called Yardmaster, Aliquippa Yard District and received the following instructions: "Move 17 Homestead and 21 Demmler off No. 18 Track."

(108) 5:45 A. M., Conductor Shipley, Extra East, Engines 5720-8353, called Yardmaster, Aliquippa Yard District and received the following instructions: "Set 18 cars to No. 3 yard and move 61 DU cars from Nos. 23 and 22 Tracks."

2. Carrier shall compensate the employes or occupants of positions herein-after named for 8 hours, at the pro rata rate of each position in addition to compensation already paid, for each and every violation occurring as here-in-above set out, as follows:

January 5, 1955, Operator on duty, Third Shift
"JW" office, 7 Days.

January 11, 1955, Operator on duty, Third Shift,
"JW" office, 2 Days.

January 12, 1955, Operator on duty, Third shift, "JW" office, 3 Days.

January 21, 1955, Operator on duty, Third shift, "BV" Tower, 1 Day.

January 26, 1955, Operator on Duty (J. J. O'Donnell) Third shift, "JW" office, 1 Day.

January 27, 1955, Operator on duty (C. P. Starolis) Third shift, "JW" office, 1 Day.

February 1, 1955, Operator on duty (J. C. Alcorn, Second shift, "JW" office, 1 Day.

February 2, 1955, Operator on duty (J. J. O'Donnell) Third shift, "JW" office, 6 Days.

February 4, 1955, Operator on duty (C. J. Lukens) First shift, "FM" Tower, 1 Day.

February 9, 1955, Operator on duty (J. J. O'Donnell) Third shift, "JW" office, 2 Days.

February 23, 1955, Operator on duty (J. J. O'Donnell) Third Shift, "JW" office, 3 Days.

March 1, 1955, Operator on duty (J. J. O'Donnell) Third shift, "JW" office, 1 Day.

March 2, 1955, Operator on duty (J. J. O'Donnell) Third Shift, "JW" office, 8 Days.

March 3, 1955, Operator on duty (T. F. Cicerchi) Second shift, "JW" office, 1 Day.

March 4, 1955, Operator on duty (T. F. Cicerchi) Third shift, "JW" office, 2 Days.

March 9, 1955, Operator on duty (J. J. O'Donnell) Third Shift, "JW" office, 5 Days.

March 11, 1955, Operator on duty (E. G. Oglesby) Third shift, "QA" Tower, 1 Day.

March 14, 1955, Operator on duty, Second shift, "MA" office, 1 Day.

March 15, 1955, Operator on duty, Second shift, "MA" office, 1 Day.

March 15, 1955, Operator on duty (S. A. Castelucio) Third shift, "JW" office, 1 Day.

March 16, 1955, Operator on duty (J. J. O'Donnell) Third shift, "JW" office, 7 Days.

March 22, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 2 Days.

March 23, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 4 Days.

March 30, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 5 Days.

March 31, 1955, Operator on duty (R. V. Dufford)
Third shift, "JW" office, 3 Days.

April 5, 1955, Operator on duty (S. A. Castelucio)
Third shift, "JW" office, 2 Days.

April 6, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 4 Days.

April 22, 1955, Operator on duty (R. V. Dufford)
Third shift, "JW" office, 1 Day.

April 27, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 1 Day.

May 4, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 1 Day.

May 5, 1955, operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 1 Day.

May 17, 1955, Operator on duty (C. J. Lukenas)
First shift, "BV" Tower, 1 Day.

May 23, 1955, Operator on duty (T. F. Cicerchi)
Third shift, "JW" office, 1 Day.

June 1, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 1 Day.

June 4, 1955, Operator on duty (R. C. Hofmeister)
First shift, "JW" office, 1 Day.

June 13, 1955, Operator on duty (W. J. Skees) First
shift, "JW" office, 1 Day.

June 14, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 1 Day.

June 16, 1955, Operator on duty (T. F. Cicerchi)
Third shift, "JW" office, 2 Days.

June 18, 1955, Operator on duty (G. B. Magner)
First shift, "JW" office, 1 Day.

June 26, 1955, Operator on duty (J. C. Alcorn) First
shift, "JW" office, 1 Day.

June 29, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 3 Days.

July 13, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 1 Day.

July 19, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 2 Days.

July 20, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 2 Days.

August 3, 1955, Operator on duty (J. J. O'Donnell)
Third shift, "JW" office, 4 Days.

EMPLOYEES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement entered into by and between the Pittsburgh & Lake Erie Railroad Company (The Lake Erie & Eastern Railroad Company), hereinafter referred to as Carrier or Management, and The Order of Railroad Telegraphers, hereinafter referred to as Employees or Telegraphers. The Agreement was effective June 1, 1951 and has been amended. The Agreement as amended is on file with this Board and by reference is included herewith as though set out herein word for word.

The claims as set forth in the Statement of Claim were handled on the property in the usual manner through the highest officer designated by Carrier, and failed of adjustment. This Division has jurisdiction over the subject matter and parties to this dispute under the provisions of the Railway Labor Act, as amended.

We shall not repeat the claims as set forth in the Statement of Claim but will refer to such claims in accordance with exhibits attached hereto, which embodied the claims as hereinabove set forth. This dispute arose over a Memorandum of Agreement dated December 13, 1954, which provides in part:

"Only employees covered by the Telegraphers' Agreement (Train Dispatchers to transmit) will be permitted to transmit, receive and deliver messages and instructions to road freight trains concerning work to be performed within the limits of another yard district and to receive and deliver messages to passenger trains between terminals."

The claims involved herein all concern either the transmission or receipt of messages and instructions to road freight trains. All such messages and instructions were transmitted or received between inter-yard districts. We shall, in Employees' Position, quote in full the Memorandum of Agreement herein above referred to.

To use Claim (1) for January 5, 1955, as an example, we give the following:

On January 5, 1955, at 1:25 A.M., Conductor Braunstahl of Extra 5732-5714, at East Youngstown, located in the East Youngstown Yard District, by telephone contacted the yardmaster at Aliquippa in another yard district and received the following instructions from the yardmaster at Aliquippa:

The Carrier respectfully submits that the Employees have failed to prove any violation of the agreement, that the claims are without merit and should therefore be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant relies on an Amended Agreement of December 13, 1954, following an Agreement effective June 1, 1951. No provision of the general Agreement between the parties is invoked.

These special Agreements were executed following differences of opinion and discussions concerning the respective rights of the parties which, it may be assumed, were not sufficiently covered in the general Agreement.

With the enactment of the Agreement relied upon, all matters in dispute were merged and it included all subject matter comprehended by its terms. Both parties acted with appreciation of the meaning of the language employed. They knew the meaning of "train orders" as used in the general Agreement and that the concept of the term could be made more definite, enlarged or modified by common consent.

The Organization relies on the first paragraph of the Amended Agreement of July 1, 1954 and particularly upon the emphasized part thereof, which provides:

"Only employees covered by the Telegraphers' Agreement (Train Dispatchers to transmit) will be permitted to transmit, receive and deliver messages and instructions to road freight trains concerning work to be performed within the limits of another yard district and to receive and deliver messages to passenger trains between terminals." (Emphasis ours.)

Carrier contends that the telephone information contained in the various communications set up in the Claim were not such as are contemplated by or included within the Amended Agreement; that in the communications train orders were not given; that they were not for record; that the communications involved conformed to long accepted practice and that they were sought by and made for the personal information of the Crews and not as a requirement of the Carrier.

While there is no proof that the Carrier directed the Crews to make the calls involved or to act upon the information thus received, neither does it appear that it did not have knowledge of such communications. Calls made by the Crews in the course of their employment intended to advance the interest of the Carrier may be attributed to it.

Practice of the parties as to any matter included in the Amended Agreement is of no assistance unless there is ambiguity in it which we can not find.

Nor need it appear that the subject of the calls and information therein contained need be made matters of record, as has been held to be necessary in submissions arising under the general Agreement, if the information was such as the Amended Agreement reserved to the Telegraphers' the right to transmit, receive or deliver.

All of the material essentials of the first paragraph of the Amended Agreement necessary to give it application to the facts here found are found in the record in this submission.

The only serious dispute is whether the messages "concerned work to be performed within the limits of another yard district." In our opinion they did within the plain concept and intendment of the language employed. The communications and directions related to the placing and moving of cars within the limits of another yard district.

The Amended Agreement of December 13, 1954, was violated as claimed.

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 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 violated as claimed.

AWARD

Claim allowed and compensation awarded as set up in part 2 of the Claim.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 4th day of February, 1960.