

Award No. 10473

Docket No. TE-9304

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert J. Ables, Referee

PARTIES TO DISPUTE:

CHICAGO GREAT WESTERN RAILWAY COMPANY

THE ORDER OF RAILROAD TELEGRAPHERS

STATEMENT OF CLAIM: (14) Carrier's file 0-184. Claim No. 707-518 by the General Committee of the Order of Railroad Telegraphers on the Chicago Great Western Railway that:

(a) the Carrier violated the terms of the Agreement between the parties when on March 8, 1952, it instructed the Conductors of Freight Trains to report themselves into clear at Chicago Transfer when no operator on duty. These instructions were issued over the signature of the Acting Chief Dispatcher on March 8, 1952, and over the signature of the Superintendent by his bulletin No. 24 on March 10, 1952, and followed up by his Bulletin No. 29 on March 24, 1952, when the B&O RR complained that the CGW crews were not reporting themselves into clear at Central Avenue, Chicago. The Carrier discontinued one Telegrapher position at Chicago Transfer and transferred this work out of the Agreement. And:

(b) as a result of this violative act the Carrier shall now compensate the employee who was and/or will be available to perform this "OS" Service, and who is employed at Chicago Transfer, in the amount of a call allowance of two hours at the time and one-half rate for each time that a Conductor or other member of train or engine crew has reported or shall in the future report arrival of his train into clear at Chicago Transfer and/or Central Avenue and for whom such compensation is claimed commencing on January 23, 1954.

EMPLOYES' STATEMENT OF FACTS and POSITION OF EMPLOYES:
The above Carrier described cases are not ready for consideration and action by your Board. They are a group of unsettled disputes involving this Carrier and this Organization which have not been handled to conclusion on the property and the right of this Organization to endeavor to settle them by further negotiations or by means other than National Railroad Adjustment Board pursuant to Article V, Section 5, of the Agreement of August 21, 1954, has been challenged by the Carrier in the Courts.

It is, therefore, our position that until the Courts have determined this matter and until these disputes have been handled as provided in Section 3, First (i) of the Railway Labor Act, as amended, they are not properly referable to your Board. Four hundred and eighty copies of this submission are

OPINION OF BOARD: This case is the same as in Award 10460, in all material respects. For the reasons stated in that award, this claim should be dismissed.

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 at approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

The claim is barred by Section 2 of Article V of the National Agreement of August 21, 1954.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 29th day of March 1962.