

**Award No. 10477**

**Docket No. TE-9308**

**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:** (18) Carrier's file 0-147. Claim No. 707-204 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 May 26, 1953, it required or permitted the telegrapher employed by the AT & SF Railroad at Terminal Yard, St. Joseph, Missouri, a point where no employe covered by the Agreement is stationed, to copy and handle otherwise, Train Order No. 67 for Extra 120 South thus creating a train order office at this closed point on that day. And that:

(b) as a result of this violative act the Carrier shall now compensate the senior employe, idle on that day on the Iowa Division Seniority District a minimum of eight (8) hours pay at the straight time rate and for whom such compensation is claimed. And that:

(c) on any future date or dates that the AT & SF RR Telegrapher is used to perform train order, or other communication of record work for the Chicago Great Western Railway Company at Terminal Yard, St. Joseph, Missouri, the Carrier shall compensate the senior employe, idle on each of the dates that such violations occur, a minimum of eight (8) hours pay at the straight time rate and for these employes such compensation is claimed.

**EMPLOYEES' STATEMENT OF FACTS and POSITION OF EMPLOYEES:**

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:** The sole question raised by the Carrier is whether or not this claim is barred because it was not presented to the Division within the time limit provisions of Article V of the National Agreement of August 21, 1954. Since the Employees agree that the claim is barred by the Time Limit Rule of the Agreement, and request that it be dismissed, the question is moot.

**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 claim is moot for the reason that both parties agree it is barred by the Time Limit Rule of the Agreement.

#### 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.