

Award No. 10485

Docket No. TE-9316

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: (26) Carrier's file 0-131. Claim No. 707-203 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 14, 1953, it required or permitted Operator Vollenweider, employed by the Illinois Central Railroad at Dubuque, Jct. to copy and handle Train Order No. 26 to the Crew of Motor 104-C. Operator Vollenweider is not covered by the Agreement. Dubuque Jct. is not a train order office nor is there a train order signal located at that point. Dubuque Jct. is a closed station and thus a train order office was created at that point on that day. And that:

(b) the Carrier shall now compensate Operator L. S. Hickie, the senior employe available to perform the work of handling the Train Order referred above, a minimum of eight (8) hours pay at the straight time rate. And that:

(c) on any future dates that the Illinois Central RR Telegrapher is used to handle train orders for Chicago Great Western Railway trains at Dubuque Jct. the Carrier shall compensate the senior employe, idle that day and available to perform that work (on the Illinois Division Seniority District) a minimum of eight (8) hours pay on each and every day that the violation occurs 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,

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.