

Award No. 10487

Docket No. TE-9318

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: (28) Carrier's file 0-136. Claim No. 707-501 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 28, 1953 it required or permitted the Conductor of Extra 120 South, a person not covered by the Agreement, to handle at Kirmeyer, a point where no telegrapher is employed, communications of record including reporting arrival of his train (OS), time crew tied up (off duty), tonnage handled along the line of his run, etc. This is work reserved for persons covered by the Telegraphers' Agreement and to transfer same to persons not covered by the Agreement violates that working agreement. And that:

(b) as a result of this violative act the Carrier shall now compensate the senior employe, idle on May 28, 1953, 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 date or dates subsequent to May 28, 1953, that similar violations occur at this point and continuing until the violation to the Agreement is corrected, the Carrier shall compensate on each date that these violations occur, the senior employe, idle 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.

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,

Exhibit "A" is attached hereto and made a part hereof as if fully set forth herein.

(Exhibits not reproduced.)

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.