

Award No. 10526

Docket No. TE-9356

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

Levi M. Hall, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
THE DELAWARE AND HUDSON RAILROAD CORPORATION**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Delaware and Hudson Railroad, that:

1. Carrier violated the Telegraphers' Agreement when on December 23, 1955, it caused, required or permitted Conductor Willett, Extra 4073 South, to handle (receive, copy and deliver) Train Order No. 26, at Crown Point, New York.
2. Carrier violated the Agreement in failing and refusing to call or permit H. O. Jones, Agent-Telegrapher, to perform the work of handling such order, he being present and available at the time.
3. Carrier shall compensate H. O. Jones, Agent-Telegrapher, Crown Point, New York, for one call as provided in Article 3(d), at the rate of \$1.793 per hour for three hours. Total \$5.38.
4. Without waiving the foregoing claims and as an additional substantive violation, Carrier violated Article V of the August 21, 1954 Agreement, in failing and refusing to comply with the time limit provisions thereof; therefore, the claim should be allowed as presented.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement, effective July 1, 1944, entered into by and between The Delaware and Hudson Railroad Corporation, hereinafter referred to as carrier or Management and The Order of Railroad Telegraphers, hereinafter referred to as Telegraphers or Employees. The Agreement is, by reference, included in this submission as though copied herein word for word.

This dispute was handled on the property in the usual manner through the highest officer designated by carrier to handle such claims. The claim was denied by the highest officer and remains an unadjusted dispute. The dispute involves an interpretation of the collective bargaining Agreement and not having been settled by Management in accordance with the Agreement, is submitted to this Division, under the provisions of the Railway Labor Act, as amended. This Board has jurisdiction of the parties and the subject matter.

The claim is not supported by agreement rules and practices thereunder and carrier respectfully requests that it be denied.

Management affirmatively states that all matters referred to in the foregoing have been discussed with the committee and made part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: In this case a train service employe copied a train order at a station where a Telegrapher is employed but was not on duty. There was no emergency and the Carrier did not call the Claimant. On the basis of Award 8260 (Guthrie) which involved the present parties, the Claim will be sustained. Award 8260 has been followed in Award 9204 (Stone), Award 9343 (Begley); Award 10241 (Gray); Award 10243 (Gray); Award 10435 (Miller).

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.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of April 1962.