

Award No. 10912

Docket No. TE-9408

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert O. Boyd, 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 & Hudson Railroad, that:

1. Carrier violated Telegraphers' Agreement on the 13th day of March, 1956, when it caused, required or permitted Conductor J. E. Coates, a train service employe not covered by Telegraphers' Agreement, to handle (receive, copy and deliver) train order No. 1 at Thurman, New York.
2. Carrier shall compensate S. E. Modeen, senior idle extra employe for one day's pay (8 hours) at minimum pro rata Telegraphers' rate for the Saratoga Division.
3. Carrier violated the Agreement, when on the 7th day of July, 1956, it caused, required or permitted Mr. Joseph Luzon, a train service employe not covered by the Telegraphers' Agreement to handle (receive, copy and deliver) train Order No. 203 at (Jones Switch) Chazy, New York.
4. Carrier shall compensate Bernard C. Guay, senior idle extra employe, Champlain Division, for one day (8 hours) at the rate of \$1.95 per hour (minimum pro rata rate telegraphers (telephoners) rate on such Seniority District) for the violation aforesaid.
5. Carrier violated the Telegraphers' Agreement when on August 15, 1956, it caused, required or permitted Conductor Gardaphe, Extra 4118, to handle (receive, copy and deliver) train order No. 213 at "CY" Siding.
6. Carrier shall compensate Telegrapher Jessey, senior idle extra employe for one day's pay (8 hours) at the minimum Telegrapher's rate on the Seniority District (Champlain Division) \$1.938 per hour (\$15.50) and in addition deadheading time of fifteen minutes each direction at \$1.938 per hour (\$0.97)—total due Telegrapher Jessey \$16.47.

for two (2) hours' work or less, and if held on duty in excess of two (2) hours, time and one-half will be allowed on the actual minute basis."

It is the Carrier's position that claim should be denied account claimants not available to perform the service required, and long-established practice, without claim or protest, of others than telegraphers copying train orders at points where telegraphers were not employed or not on duty.

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: The submission presents three disputes which are identical in principle. Each claim is based on an alleged violation of the Telegrapher's Agreement because an Employee not covered by the Telegrapher's Agreement handled train orders. No Telegrapher is employed at any of the points where the disputes arose. The Carrier denies any violation of the Agreement.

There have been a number of disputes before this Division involving the same Agreement, the same parties and all premised on similar facts. See Awards 9204, 9262, 10432, 10433 and 10434. In the furtherance of the Division's work, it is desirable that prior awards, if patently not erroneous, be followed. To do otherwise would lead only to chaos. Having found that the awards mentioned above are controlling here, we conclude that the claims in this docket are without merit and must, therefore, be denied.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1962.