

Award No. 11486

Docket No. TE-10537

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

CHICAGO GREAT WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago Great Western Railway that:

1. Carrier violated and continues to violate the agreement between the parties when on each Saturday, beginning with Saturday, October 20, 1956, it requires or permits employes not covered by the agreement to receive and copy train line-ups at Lorimor, Iowa and fails and refuses to call the agent-telegrapher to perform this work.

2. Carrier shall compensate T. E. Goin, occupant of the position of agent-telegrapher at Lorimor, Iowa, or his successor, in the amount of a minimum call payment on each Saturday beginning Saturday, December 8, 1956 and continuous thereafter until the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

Lorimor, Iowa, is a one-man station on this Carrier's lines. The one position is that of Agent-Telegrapher with assigned hours 7:30 A.M. to 11:30 A.M. and 12:30 P.M. to 4:30 P.M., work days Monday through Friday, rest days Saturday and Sunday. The station is closed on the rest days.

Roadmaster Hill, a subordinate official of the Carrier, has his headquarters at Lorimor. Each Saturday Mr. Hill patrols his district on a track motor car to determine the condition of the track. Before starting on this trip he must have a train line-up. Prior to October 20, 1956, the Agent-Telegrapher secured this train line-up for the Roadmaster each Saturday and was paid for a call in accordance with the rules of the Agreement. There was no question as to the payment until October 6, 1956. The time slips submitted for October 6 and 13, 1956 were turned down by the Chief Dispatcher but after an exchange of correspondence between the Chief Dispatcher and the General Chairman they were allowed. (ORT Exhibit No. 1) The time slip submitted by claimant because of copying the train line-up on October 20, 1956 was turned down and has not been allowed.

and 3:00 P.M. on Saturday, train dispatcher will call the agent-telegrapher at Lorimor and furnish a line-up. Records indicate that no extra train has operated on Roadmaster Hill's territory on Saturday between 8:00 A.M. and 3:00 P.M. during 60 day period following date of claim. As a matter of fact, it is unusual to operate any additional service at any time in this territory, such additional service, if any, being confined to a wrecking outfit or an occasional self-propelled crane in work train service. Since the inauguration of the five day work week for non-operating employes, self-propelled work equipment is seldom operated on Saturday, which is a penalty day for the operator thereof. However, roadmaster generally has advance information concerning the movement of wrecking outfit or roadway work equipment and accompanies same over his district. In view of the foregoing, it is clear that Allegation No. 2 is erroneous.

3. Allegation that roadmaster receives a line-up at Lorimor from other than the agent-telegrapher at that station. Facts are: As previously indicated herein, normally Roadmaster Hill can patrol his territory on Saturday at a time when no trains are operated and there is no necessity for obtaining a line-up from the agent-telegrapher at Lorimor or from anyone else. Obviously, the Employes' allegation in this regard is premised on the assumption that if the roadmaster is not receiving a line-up from claimant, he must be receiving it from some other source. In other words, Allegation No. 3 stems from an erroneous premise and is likewise erroneous.

While claim is predicated on the Employes' assertion that a line-up was copied at Lorimor by other than claimant, the Employes thus far have failed to produce a copy of said line-up. Furthermore, Carrier has no knowledge of the existence of an alleged line-up. However, even if a line-up had been copied by the roadmaster, it is the Carrier's position that such action would not constitute a violation of the Telegraphers' Agreement. Obviously, a lengthy discussion as to whether or not the copying of a line-up by a roadmaster constitutes a violation of the Telegraphers' Agreement would be purely academic at this point as there is no evidence that a line-up was actually copied at Lorimor on any of the dates involved in claim. On the basis of the record there is no justification for the penalty claimed and same should be denied.

Carrier affirms that all data in support of its position has been presented to the other party and made a part of the particular question in dispute.

OPINION OF BOARD: The Petitioner has completely failed to furnish any factual proof of any violation of the Agreement. It naturally follows that any effort on our part to determine the rights of the subject parties would be a futile one. For the foregoing reason the claim must be dismissed.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing:

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 there has been no violation 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 7th day of June 1963.