

Award No. 11671

Docket No. TE-10435

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Jim A. Rinehart, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

WABASH RAILROAD COMPANY

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

(1) The Carrier violated the parties' Agreement when, at Bement, Illinois, it permitted or required a Track Supervisor, an employe not covered by the Agreement, to transmit a message over the telephone to 'XD' Relay Office, Decatur, Illinois, at 10:40 A. M., Sunday, April 14, 1957, a rest day of claimant's position.

(2) The Carrier shall, because of the violation set forth above, compensate Roy Veech, regularly assigned Agent-Telegrapher, Bement, Illinois, a minimum call as provided by Rule 7, Section 2, B (1) of the parties' Agreement.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement by and between the parties to this dispute effective September 1, 1955, as revised.

At Page 28 of this Agreement are listed the positions in existence at Bement, Illinois, on the effective date of the Agreement.

Location	Title	Rate per hour
Bement	ATL	\$2.12½
	2nd TL	1.90½
	3rd TL	1.90½

The rate of the positions has been increased as a result of collective bargaining, and in accordance with the cost-of-living adjustment Agreement of November 1, 1956.

On or about December, 1956, pursuant to the installation of Centralized Traffic Control through the Bement territory, the second and third shift telegrapher-leverman positions were abolished.

transmitting communications of record by telephone at Bement, Illinois, * * *, as the Carrier did not agree to the inclusion of provisions in the agreement which necessarily would have to be there in order to support the Committee's contention of a violation in this case.

The claims should be denied.

The Carrier affirmatively states that the substance of all matters referred to herein has been the subject of correspondence or discussion in conference between the representatives of the parties to this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: On Sunday, April 14, 1957 at about 10:40 A. M. Supervisor R. C. Miles transmitted the following transportation message over the telephone from his office at Bement to "XD" Office at Decatur, Illinois:

"Bement Ills April 14th 1957

"JNS

JCJ

MWH

JWM Decatur Ills

"Call work train at Bement for 5 A. M. April 15th pick up at Decatur on track 29 west bound yard ten cars slag ballast run to Bement and pick up NYC 951237 on west end of No 2 track run to Homer and work between Homer and Fairmount tie up at Decatur

"R C Miles

1040 A. M."

Claimant asserts that the message was a communication of record concerning the movement of trains and that he was deprived of work belonging to him as a telegrapher under the existing agreement between the parties.

This identical question between the same parties involving a message in substance the same as the one here, has been passed on by this Board in Award 11401 (Hall). That decision is in our opinion sound and we adopt and follow it.

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 5th day of August 1963.