

Award No. 11718

Docket No. TE-10082

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

NORTHERN PACIFIC RAILWAY COMPANY

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

1. Carrier violated agreement between the parties hereto when on January 1, 1957, it caused, required, or permitted track supervisor Smith to receive (by use of telephone), train line-up No. 203 at Elliston, Montana.

2. Carrier shall be required to compensate L. M. Vick, agent-Telegrapher, Elliston, Montana, for one call (3 hours at time and one-half rate) for violation occurring as set forth in paragraph 1.

3. Carrier violated agreement between the parties hereto when on November 21, 28; December 5, 1956, it caused, required or permitted operators of track motor cars to receive (by use of telephone) train lineups Nos. 1, 202, and 205, respectively, at Clinton, Montana.

4. Carrier shall compensate R. C. Watts, idle extra telegrapher for 8 hours at the minimum regular telegrapher-telephoner rate for violations occurring as set forth in paragraph 3 for each date of violation.

5. Carrier violated the agreement between the parties hereto when on November 17; December 15 and 29, 1956, it caused, required, or permitted track supervisor Lechner to receive (by use of telephone), train line-ups Nos. 104, 106, and 105, respectively, at Arlee, Montana.

6. Carrier shall compensate C. A. Blakeslee, agent telegrapher Arlee, Montana for one call (2 hours at time and one-half regular rate) for each violation occurring as set forth in paragraph 5.

7. Carrier violated agreement between the parties hereto when on December 10, 11, 17, 18, 1956; January 7, 8, 1957, it caused, required, or permitted Section Foreman at Evaro, Montana to receive (by use of telephone), train lineups Nos. 109, 103, 109, 105, 103, and 103, respectively.

8. Carrier shall compensate R. C. Watts, idle, extra telegrapher for 8

hours at the minimum telegrapher-telephoner regular rate for each date of violation as set forth in paragraph 7.

9. Carrier violated agreement between the parties hereto when on November 29 and December 6, 1956, it caused, required, or permitted track motor car operators to receive (by use of telephone) train line-ups Nos. 203 and 202 respectively at Clinton, Montana.

10. Carrier shall compensate Mrs. E. M. Murray, senior, idle employe for 8 hours at the minimum telegrapher (telephoner regular rate) for each date of violation as set forth in paragraph 9.

11. Carrier violated agreement between the parties hereto when on January 26, 1957, it caused, required, or permitted track supervisor Lechne to receive (by use of telephone), train line-up Nos. 109 at Arlee, Montana.

12. Carrier shall compensate J. G. Bjork, telegrapher, Arlee, Montana, for one call (2 hours at time and one-half regular rate) for violation as set forth in paragraph 11.

13. Carrier violated agreement between the parties hereto when on February 2, 1957 it caused, required, or permitted Mr. Brown, Signal Maintainer, to receive (by use of telephone), train line-up No. 201 at St. Regis, Montana.

14. Carrier shall compensate R. G. Drew, agent-telegrapher St. Regis, Montana for one call (2 hours at time and one-half regular rate) for violations set forth in paragraph 13.

EMPLOYES STATEMENT OF FACTS: There is in full force and effect a collective bargaining agreement entered into by and between Northern Pacific Railway Company, hereinafter referred to as Carrier or Management, and The Order of Railroad Telegraphers, hereinafter referred to as Employes or Telegraphers. The Agreement is on file with this Division and is, by reference, made a part of this submission as though set out herein word for word.

The disputes submitted herein were handled separately on the property in the usual manner through the highest officer designated by Management to handle such disputes and failed of adjustment. The disputes are, under the provisions of the Railway Labor Act as amended, submitted to this Division for award. The seven separate disputes submitted herein involve the same substantive claim. It is the position of Employes that the Board has determined the substantive claim in Awards 7344 and 7345, and fixed the quantum of compensation to be allowed for violations set forth in most of the dispute. We shall further discuss these Awards in the Position of Employes.

The claims involve the receiving and copying of train line-ups at Elliston, Montana; Clinton, Montana; Arlee, Montana; Evaro, Montana and St. Regis, Montana at various times and on various dates. We shall label the different disputes by case numbers in accordance with the paragraph numbers shown in the Statement of Claim. These disputes were separately handled on the property but for convenience of the parties are submitted to this Board in one submission, the rules of the agreement being the same in each dispute and the contentions of the parties will be the same in each dispute.

CASE NO. 1

(Paragraphs 1 and 2, Statement of Claim)

L. M. Vick, claimant in this case was at all times hereinafter mentioned

operation as unrealistic as would flow from an award sustaining the claims covered by this docket.

The Carrier has shown that the operators of the track motor cars did not usurp work included within the scope of the Telegraphers' Agreement when these employes secured train line-ups over the telephone from telegraphers employed and on duty at adjacent stations while working at either open stations or blind sidings; that traditionally, operators of track motor cars have always secured train line-ups from telegraphers employed at adjacent stations when working at a station where a telegrapher was employed but not on duty or when working at a blind siding; and that this traditional practice has not been abrogated or modified by the Telegraphers' Agreement effective April 1, 1956. Accordingly, this claim should be denied in its entirety.

All data in support of the Carrier's position in connection with this claim has been presented to the duly authorized representative of the Employes, and is made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: There are seven cases involved in this dispute, which arises out of Claimants' contentions that employes other than those covered by the Telegraphers' Agreement copied train line-ups in violation of the Agreement.

In Award 9998, which followed in principle Awards 7344 and 7345, similar facts and the same issues were presented between the identical parties as represented here and that award is controlling in the current matter. These Awards have been followed on this same property in Awards Nos. 10835, 11228, 11399 and 11400.

For the foregoing reason we find the Agreement was violated.

In the matter of reparation Rule 51 of the Agreement, effective April 1, 1956; will apply to all of these claims except in Case No. 1 which occurred on January 1, a holiday, where Rule 55 of the Agreement will apply and 3 hours shall be allowed for one call at the time and one-half rate.

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 has been violated.

AWARD

Claims sustained as per opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of September, 1963.