

Award No. 11719
Docket No. TE-10393

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:

CASE No. 1

1. Carrier violated the Agreement between the parties hereto when on the 10th day of March, 1957 (Sunday) it caused, required or permitted a signal maintainer, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 204 at Superior, Montana.

2. Carrier shall be required to compensate C. A. Blakeslee, assigned to St. Regis-Superior, rest day relief assignment at Superior, Montana, for one call (2 hours at time and one-half rate) for violation occurring as set forth in paragraph 1.

CASE No. 2

1. Carrier violated the Agreement between the parties hereto when on the 16th day of March, 1957, it caused, required or permitted a signal maintainer, an employe not covered by Telegraphers' Agreement to receive and copy (by use of telephone) train lineup No. 205 at Superior, Montana.

2. Carrier shall be required to compensate C. A. Blakeslee, assigned to St. Regis-Superior, rest day relief assignment, Superior, Montana, for one call (2 hours at time and one-half rate) for violation occurring as set forth in paragraph 1.

CASE No. 3

1. Carrier violated the Agreement between the parties hereto when on the 4th day of April, 1957, it caused, required or permitted Section Foreman Adams, an employe not covered by Telegraphers' Agreement, to receive and

copy (by use of telephone) train lineup No. 112 at Quinns, Montana.

2. Carrier shall be required to compensate C. A. Blakeslee, assigned to St. Regis-Superior, rest day relief assignment, for 8 hours at the pro rata rate for violation occurring as set forth in paragraph 1.

CASE No. 4

1. Carrier violated the Agreement between the parties hereto when on the 25th day of April, 1957, it caused, required or permitted Section Foreman Jefferies, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 206 at Frenchtown, Montana.

2. Carrier shall be required to compensate C. A. Blakeslee, assigned to St. Regis-Superior, rest day relief assignment, Superior Montana, for 8 hours at the pro rata rate for violation occurring as set forth in paragraph 1.

CASE No. 5

1. Carrier violated the Agreement between the parties hereto when on the 10th day of May, 1957, it caused, required or permitted, a Mr. Brown, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 109 at Donlan, Montana.

2. Carrier shall be required to compensate C. A. Blakeslee, assigned to St. Regis-Superior, rest day relief assignment at Superior, Montana, for 8 hours at the pro rata rate for violation occurring as set forth in paragraph 1.

CASE No. 6

1. Carrier violated the Agreement between the parties hereto when on the 16th day of April, 1957, it caused, required or permitted, Signal Maintainer Brown, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 110 at Quinns, Montana.

2. Carrier shall be required to compensate G. C. Nutter, telegrapher, DeSmet, Montana, for 8 hours at the pro rata rate for violation occurring as set forth in paragraph 1.

CASE No. 7

1. Carrier violated the Agreement between the parties hereto when on May 20, 1957, it caused, required or permitted Section Foreman Jeffries, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 211 at Evaro, Montana.

2. Carrier shall be required to compensate G. C. Nutter for 8 hours at the pro rata rate for the violation occurring as set forth in paragraph 1.

CASE No. 8

1. Carrier violated the Agreement between the parties hereto when on the 17th day of April, 1957, it caused, required or permitted Track Supervisor Smith, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 111 at Frenchtown, Montana.

2. Carrier shall be required to compensate Mrs. M. Mosier, extra telegra-

pher, for 8 hours at the pro rata rate for violation occurring as set forth in paragraph 1.

CASE No. 9

1. Carrier violated Agreement between the parties hereto when on May 25, 1957, it caused, required or permitted Section Foreman Hebnes, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineups Nos. 201, 107 and 204 at Perma, Montana.

2. Carrier shall be required to compensate K. E. Branstetter, Agent-Telegrapher, Perma, Montana, for three calls of two hours each at time and one-half rate, for violations occurring as set forth in paragraph 1.

CASE No. 10

1. Carrier violated the Agreement between the parties hereto when on May 26, 1957, it caused, required or permitted Mr. Hebnes, Section Foreman, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineups Nos. 201, 202 and 203 at Perma, Montana.

2. Carrier shall be required to compensate K. E. Branstetter, Agent-Telegrapher at Perma, Montana, for three calls (one call of two hours and two calls of three hours each) at time and one-half rate for violations as set forth in paragraph 1.

CASE No. 11

1. Carrier violated the Agreement between the parties hereto when on the 27th day of May, 1957, it caused, required or permitted Mr. Hebnes, Section Foreman, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 201 at Perma, Montana.

2. Carrier shall be required to compensate K. E. Branstetter, Agent-Telegrapher, Perma, Montana, for one call of two hours at time and one-half rate, for violation as set forth in paragraph 1.

CASE No. 12

1. Carrier violated the Agreement between the parties hereto when on May 28, 1957, it caused, required or permitted Section Foreman Hebnes, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 201 at Perma, Montana.

2. Carrier shall be required to compensate K. E. Branstetter, Agent-Telegrapher, Perma, Montana, for one call of two hours at time and one-half rate, for violation as set forth in paragraph 1.

CASE No. 13

1. Carrier violated the Agreement between the parties hereto when on May 29, 1957, it caused, required or permitted Section Foreman Hebnes, an employe not covered by Telegraphers' Agreement, to receive and copy (by use of telephone) train lineup No. 201 at Perma, Montana.

2. Carrier shall be required to compensate K. E. Branstetter, Agent-Telegrapher at Perma, Montana, for one call of two hours at time and one-half rate, for violation occurring as set forth in paragraph 1.

effective April 1, 1956. The Carrier has also shown that the penalty for time lost is payment at pro rata rate rather than at punitive rate for the number of hours of work lost. Accordingly, this claim should be denied in its entirety.

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

(Exhibits not reproduced).

OPINION OF BOARD: There are thirteen cases involved in this dispute, which arises out of Claimants' contentions that employees 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 subsequently 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 cases.

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 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.