

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

William N. Christian, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE DELAWARE AND HUDSON RAILROAD CORP.

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

1. Carrier violated the provisions of the Telegraphers' Agreement when, on November 17, 1957, it required or permitted Conductor Mitchison, Extra 4052, to handle (receive, copy and deliver) 19 Train Order No. 5 at Wadhams, New York.

2. Carrier shall now compensate the senior available telegrapher, Oscar C. Ladue, account no extra telegrapher available, eight (8) hours at the rate of the position occupied, at time and one-half account rest day, in the amount of \$26.40, plus mileage of twenty-eight (28) miles at seven cents (7¢) per mile or \$1.96, and deadheading time at two (2) minutes per mile or \$3.25, or a total of \$31.61.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining Agreement entered into by and between The Delaware and Hudson Railroad Corporation, hereinafter referred to as Carrier or Management, and The Order of Railroad Telegraphers, hereinafter referred to as Employees or Telegraphers. The Agreement was effective April 1, 1957 and is on file with this Division. The Agreement is, by reference, made a part of this submission as though set out herein word for word.

The dispute submitted herein was handled on the property in the usual manner through the highest officer designated by Carrier to handle such disputes and failed of adjustment. The dispute is submitted to this Division under the provisions of the Railway Labor Act, as amended, and this Division of the National Railroad Adjustment Board has jurisdiction of the parties and the subject matter in accordance with the provisions of said Act.

This dispute involves the question of violation of the Agreement in permitting an employe not covered by the Telegraphers' Agreement to handle train orders at Wadhams on November 17, 1957. Article 23 (A) of the Agreement provides:

OPINION OF BOARD: The issues herein are the same as in Docket No. 10541, Award No. 12015, and we adopt the opinion therein as determinative of the issues in the confronting claim.

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 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 19th day of December 1963.