

Award No. 12165
Docket No. TE-10431

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Kieran P. O'Gallagher, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

SOUTHERN RAILWAY COMPANY

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

CLAIM NO. 1

1. Carrier violated the Agreement when on March 7, 1957, it caused, required or permitted Mr. C. W. Green, a train conductor, not covered by the Telegraphers' Agreement, to handle (receive, copy and deliver) Train Order No. 218 at Brown Summit, North Carolina.

2. Carrier shall compensate R. L. Hendry, idle extra telegrapher, or the senior idle extra telegrapher, Danville Division Seniority District, on March 7, 1957, for one day (eight hours) at the rate of \$1.96 per hour, minimum pro rata telegraphers (telephoners) rate on this seniority district, for the violation aforesaid.

CLAIM NO. 2

1. Carrier violated the Agreement when on March 22, 1957, it caused, required or permitted Mr. R. H. Thompson, a train conductor, not covered by the Telegraphers' Agreement, to handle (receive, copy and deliver) Train Order No. 221 at Thomasville, North Carolina.

2. Carrier shall compensate R. L. Hendry, idle extra telegrapher, or the senior idle extra telegrapher, Danville Division Seniority District, on March 22, 1957, for one day (8 hours) at the rate of \$2.10 per hour (pro rata rate for telegraphers (telephoners) on this position) for the violation aforesaid.

EMPLOYES' STATEMENT OF FACTS: On March 7, 1957 at 12:57 P.M., Conductor C. W. Green of Extra 6212 North, while at Brown Summit, North Carolina, copied the following train order by the use of the telephone. Train Order No. 218 reads as follows:

(d) The ORT has long since conceded the point here at issue.

(e) Prosecution of the claims and demands here made by the ORT is nothing more than an effort to establish a make-work scheme under which the telegraphers would benefit at the expense of the Carrier.

The Board, being bound by law to interpret the agreement between the Carrier and its telegraphers, and being prevented from making rules or creating make-work schemes, has no alternative but to make a denial award.

All evidence submitted in support of Carrier's position is known to employe representatives.

Carrier, not having seen the ORT's submission, reserves the right, after doing so, to reply thereto.

OPINION OF BOARD: This case is the same in all material respects as in Docket No. TE-9988, Award No. 12150. We adopt the opinion therein as determinative of the issues in this case.

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 29th day of January 1964.