

Award No. 12305

Docket No. TE-11088

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Joseph S. Kane, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, Rock Island and Pacific Railroad that:

1. Carrier violated the agreement between the parties when, on April 16, 1958, it required or permitted employes not covered by the agreement to handle orders governing the movement of trains.

2. Carrier shall be required to compensate D. W. Yates, Operator Short Line Tower, for a day's pay and G. H. Lawhorn, Agent Carlisle, Iowa, for a minimum call on April 16, 1958.

EMPLOYES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

The stations mentioned in this case are immediately south of Des Moines, Iowa. Short Line Tower is located in the outskirts of Des Moines; Avon is a closed station about 3 miles south of Short Line Tower and Carlisle about 7 miles south of Avon. At Short Line Tower there are three basic positions under the agreement providing continuous service seven days per week; at Avon there are no positions under the agreement; at Carlisle there is one position of Agent-Telegrapher under the agreement with assigned hours 7:00 A. M. to 4:00 P. M. (one hour meal period) and assigned rest days of Saturdays and Sundays.

The violation of agreement giving rise to this claim occurred on the night of February 15-16, 1958 when an officer of the Carrier, Trainmaster Pasta, at Carlisle, by use of telephone (radio) issued an order to the conductor of Work Extra 1227 at Avon giving the work extra right over all northward trains from Avon to Carlisle. The order was not issued in the prescribed manner on the prescribed form as Trainmaster Pasta did not have the necessary train dispatcher's equipment with him at Carlisle. He had ridden the Winterset Local, Extra 441 North, into Carlisle. The trainmaster arranged to make the

We submit on basis of the facts in this case, there was no violation of the agreement nor have the employees produced any evidence of loss by the claimants, nor basis, under the rules, and we respectfully request denial of the claim.

OPINION OF BOARD: The facts giving rise to this claim occurred on February 15-16, 1958 when the Trainmaster at Carlisle, by use of a radio telephone issued an order to the conductor of Work Extra 1227 at Avon giving the work extra rights over all northward trains from Avon to Carlisle. The Trainmaster subsequently flagged all northward trains at Carlisle, as Work Extra proceeded from Avon to Carlisle.

It was the contention of the Claimants that the work of transmitting and receiving messages, orders and reports affecting the movement of trains, is the exclusive work of Telegraphers. The Trainmaster authorized Work Extra 1227 to move from Avon to Carlisle against opposing trains.

The Carrier contended that all the Trainmaster did was to perform the flagging of Northbound trains at Carlisle which permitted the work train to move south and no train orders were issued.

We are of the opinion that Work Extra 1227 moved from Avon to Carlisle as a result of the communication between the Trainmaster at Carlisle and the Conductor at Avon. This communication was an authorization which involved the movement of a train and although not in writing performed that function.

Thus we are of the opinion that the Agreement was violated.

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 respectfully 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 6th day of March, 1964.