

Award No. 12706

Docket No. TE-13184

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Louis Yagoda, 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:

The Carrier on or about July 3, 1960, initiated and put into effect a program on a system-wide basis of removing a large portion of communication work, namely, transmitting and receiving messages and reports of record, which had from time immemorial been performed by employees covered by the scope of the Telegraphers' Agreement. It is now requiring or permitting employees not coming within the scope of said Agreement to perform, by means of the telephone in lieu of telegraph, printer and other mechanical telegraph machines, communications service which is reserved to employees of the classes enumerated in the Agreement. In so doing, the Carrier violated, and continues to violate, the provisions of the Telegraphers' Agreement, as is shown in the violations herein listed. This is a continuing claim for all violations subsequent to the dates shown herein.

VIOLATION NO. 1

(a) At 4:40 P.M., July 4, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EAV, Spencer, N. C.; WEC, Air Line Junction, N. C.; GWC, Hayne, S. C.

(b) At 7:55 P.M., July 4, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 11:55 P.M., July 4, 1960, Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 11:55 P.M., July 4, 1960, Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(e) At 9:10 P.M., yard clerk delivered as usual No. 153's consist to telegraph operator in "V" Office for transmission. At 9:12

P.M. he returned for consist, saying that Night Chief Dispatcher Cash said to bring to him and that he would telephone it to Inman Yards. The consist was not returned to telegraph office for transmission.

For violation No. 1, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 4, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour, or \$30.18.

VIOLATION NO. 2

(a) At 10:55 A.M., July 5, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator, Chamblee, Georgia, for conductor No. 58.

(b) At 1:55 P.M., July 5, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator, Chamblee, Georgia, for conductor No. 58.

(c) At 2:08 P.M., July 5, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operators at Kannapolis, N.C., and Spencer, N.C., respectively, for LJB and C&E No. 57, respectively.

(d) At 3:00 P.M., July 5, 1960, Clerk Williams (clerk to chief dispatcher) transmitted by telephone a message of record to telegraph operators at Salisbury, N.C., Charlotte, N.C., Air Line Junction, N.C., Hayne and Spartanburg, S.C., respectively, addressed to C&E No. 19 Salisbury; RL&WEC, Charlotte; WEC and WMA, Air Line Junction; GWC and Tower, Hayne and GWC at Spartanburg.

(e) At 3:10 P.M., July 5, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to Clerk Whitner in Spencer, N.C., addressed to EAV, HWR and conductor No. 57, Spencer, subsequently this message was phoned to Air Line Junction and Hayne Tower.

For violation No. 2, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 5, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour, or \$30.18.

VIOLATION NO. 3

(a) At 4:15 P.M., July 5, 1960, Clerk Williams (clerk to chief dispatcher) transmitted message of record by telephone to ticket agent, Spartanburg, S.C.

(b) At 4:50 P.M., July 5, 1960, T. J. Walker of chief dispatcher's office, transmitted by telephone a message of record to GWC, Hayne, S.C.; GWC, Spartanburg, S.C.; EAV and HWR, Spencer.

(c) At 4:55 P.M., July 5, 1960, T. J. Walker of chief dispatcher's office transmitted by telephone a message of record to LBS, FEC and LSP, Inman Yards, Georgia and PTH, Spencer, N.C.

(d) At 11:15 P.M., July 5, 1960, Night Chief Dispatcher Ivie transmitted by telephone a message of record to FEC, Inman Yards, Georgia.

For violation No. 3, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 5, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour, or \$30.18.

VIOLATION NO. 4

(a) At 8:10 A.M., July 6, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 8:29 A.M., July 6, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator, Toccoa, Georgia, for C&E No. 71.

(c) At 8:40 A.M., July 6, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator Hayne, South Carolina, for GWC and Tower, Hayne, S. C.

(d) At 3:05 P.M., July 6, 1960, Clerk Williams (clerk to chief dispatcher) received by telephone a message of record from agent-telegrapher, Grover, N. C.

(e) At 3:15 P.M., July 6, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to Terminal Trainmaster W. E. Curlee, Air Line Junction, N. C.

(f) At 3:25 P.M., July 6, 1960, Clerk Williams (clerk to chief dispatcher) transmitted a message of record by telephone to Jackson, Spencer Tower.

For violation No. 4, Carrier shall compensate Telegrapher J. O. Crocker, senior idle telegrapher, Charlotte Division, July 6, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 5

(a) At 5:00 P.M., July 6, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator "MO" Salisbury, N. C., for Conductor and Engineer No. 35.

(b) At 5:25 P.M., July 6, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operators at Hayne, S. C., and Spencer, N. C., respectively, for GWC, FGE and HWR at Hayne and EAV at Spencer, N. C.

(c) At 9:59 P.M., July 6, 1960, Night Chief Dispatcher Ivie received by telephone a message of record from telegraph operator "MO" at Salisbury, N. C.

For violation No. 5, Carrier shall compensate Telegrapher C. D. Painter, senior idle telegrapher, Charlotte Division, July 6, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 6

(a) At 12:18 A.M., July 7, 1960, Night Chief Dispatcher Ivie transmitted by telephone a message of record to telegraph operator, Hayne, S.C., for GWC, Hayne, S.C.

(b) At 1:05 A.M., July 7, 1960, Night Chief Dispatcher Ivie transmitted by telephone a message of record to telegraph operator, Hayne, S.C., for GWC, Hayne, S.C.

(c) At 2:10 A.M., July 7, 1960, Night Chief Dispatcher Ivie transmitted by telephone a message of record to telegraph operator in "QN" Office, Atlanta, Georgia, for HBS, Atlanta, Ga.

(d) At 2:20 A.M., July 7, 1960, Dispatcher Cash transmitted by telephone a message of record with EMT's Office, Washington, D.C.

For violation No. 6, Carrier shall compensate Telegrapher J. O. Crocker, senior idle telegrapher, Charlotte Division, July 7, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 7

(a) At 8:50 A.M., July 7, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator, Hayne, S.C., for GWC, Tower and FGE, Hayne, S.C.

(b) At 10:36 A.M., July 7, 1960, Chief Dispatcher Lutz received by telephone a message of record from agent-telegrapher, Cowpens, S.C.

(c) At 10:40 A.M., July 7, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator, Hayne, S.C., for GWC, FGE and C&E No. 58, Hayne, S.C.

(d) At 10:50 A.M., July 7, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to telegraph operator, Salisbury, N.C., for C&E No. 33.

For violation No. 7, Carrier shall compensate Telegrapher C. D. Painter, senior idle telegrapher, Charlotte Division, July 7, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 8

(a) At 1:00 P.M., July 8, 1960, Clerk Williams (clerk to chief dispatcher) transmitted by telephone a message of record to WPA, Inman Yards, Georgia.

(b) At 3:00 P.M., July 8, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D.C.

For violation No. 8, Carrier shall compensate Telegrapher C. D. Painter, senior idle telegrapher, Charlotte Division, July 8, 1960, by paying him one day, eight hours' pay at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 9

(a) At 11:00 P.M., July 9, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 11:05 P.M., July 9, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 11:50 P.M., July 9, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 9, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 9, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 10

(a) At 7:30 A.M., July 10, 1960, Chief Dispatcher Ivie transmitted by telephone a message of record to OBB, Inman Yards, Ga.

For violation No. 10, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 10, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 11

(a) At 11:45 A.M., July 10, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D.C., with Clerk Fisher receiving the message.

For violation No. 11, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 10, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 12

(a) At 10:45 A.M., July 10, 1960, Night Chief Dispatcher Cash transmitted by telephone message of record to EMT's Office, Washington, D. C.

(b) At 11:50 P.M., July 10, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 11:54 P.M., July 10, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 11:56 P.M., July 10, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 12, Carrier shall compensate Telegrapher L. R. Henderson, senior idle telegrapher, Charlotte Division, July 10, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 13

(a) At 8:30 A.M., July 11, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to Atlanta, Georgia.

For violation No. 13, Carrier shall compensate Telegrapher J. O. Crocker, senior idle telegrapher, Charlotte Division, July 11, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 14

(a) At 11:30 P.M., July 11, 1960, night chief dispatcher transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 11:50 P.M., July 11, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 11:50 P.M., July 11, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 14, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 11, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 15

(a) At 7:40 A.M., July 12, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 15, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 12, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 16

(a) At 10:43 P.M., July 12, 1960, Night Chief Dispatcher Ivie transmitted by telephone a message of record to Clerk Neighbors, EMT's Office, Washington, D. C.

For violation No. 16, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 12, 1960,

by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 17

(a) At 1:08 A.M., July 14, 1960, Night Chief Dispatcher Ivie transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 17, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 14, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 18

(a) At 8:10 A.M., July 16, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 18, Carrier shall compensate Telegrapher J. M. McClellan, senior idle telegrapher, Charlotte Division, July 16, 1960, by paying him one day, eight hours' pay at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 19

(a) At 1:00 A.M., July 17, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 1:00 A.M., July 17, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 1:20 A.M., July 17, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 2:40 A.M., July 17, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 19, Carrier shall compensate Telegrapher L. R. Henderson, senior idle telegrapher, Charlotte Division, July 17, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 20

(a) At 3:10 P.M., July 17, 1960, Chief Dispatcher Ivie transmitted by telephone a message of record to Clerk Mathews, EMT's Office, Washington, D. C.

For violation No. 20, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 17, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 21

(a) At 12:01 A.M., July 18, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 12:01 A.M., July 18, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 12:01 A.M., July 18, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 12:01 A.M., July 18, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 21, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 18, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 22

(a) At 9:40 A.M., July 18, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 22, Carrier shall compensate Telegrapher L. R. Henderson, senior idle telegrapher, Charlotte Division, July 18, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 23

(a) At 12:20 A.M., July 19, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 12:20 A.M., July 19, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 12:20 A.M., July 19, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 23, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 19, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 24

(a) At 11:30 A.M., July 22, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 24, Carrier shall compensate Telegrapher L. R. Henderson, senior idle telegrapher, Charlotte Division, July 22, 1960, by paying him one day, eight hours' pay, at time and one-half rate for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 25

(a) At 7:15 A.M. and 7:20 A.M., July 23, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to LLW, Washington, D. C. and HWR, Spencer, N. C., respectively.

For violation No. 25, Carrier shall compensate Telegrapher J. W. Prince, senior idle telegrapher, Charlotte Division, July 23, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour, or \$30.18.

VIOLATION NO. 26

(a) At 8:00 A.M., July 23, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 8:30 A.M., July 23, 1960, Chief Dispatcher Lutz transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 26, Carrier shall compensate Telegrapher L. E. Shirley, senior idle telegrapher, Charlotte Division, July 23, 1960, by paying him one day, eight hours' pay at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 27

(a) At 12:01 A.M., July 25, 1960, Night Chief Dispatcher Crocker transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 12:01 A.M., July 25, 1960, Night Chief Dispatcher Crocker transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 12:01 A.M., July 25, 1960, Night Chief Dispatcher Crocker transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 12:01 A.M., July 25, 1960, Night Chief Dispatcher Crocker transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 27, Carrier shall compensate Telegrapher L. R. Henderson, senior idle telegrapher, Charlotte Division, July 25, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLATION NO. 28

(a) At 1:45 A.M., July 30, 1960, Clerk Bailey (clerk to chief dispatcher) transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 28, Carrier shall compensate Telegrapher J. W. Prince, senior idle telegrapher, Charlotte Division, July 30, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour, or \$30.18.

VIOLETION NO. 29

(a) At 1:44 A.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 1:44 A.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 1:44 A.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 1:44 A.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 29, Carrier shall compensate Telegrapher J. W. Prince, senior idle telegrapher, Charlotte Division, July 31, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

VIOLETION NO. 30

(a) At 10:00 P.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(b) At 10:00 P.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(c) At 10:00 P.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

(d) At 10:00 P.M., July 31, 1960, Night Chief Dispatcher Cash transmitted by telephone a message of record to EMT's Office, Washington, D. C.

For violation No. 30, Carrier shall compensate Telegrapher L. R. Henderson, senior idle telegrapher, Charlotte Division, July 31, 1960, by paying him one day, eight hours' pay, at time and one-half rate of pay for telegraphers of "V" Office, \$2.5150 per hour or \$30.18.

Compensation for senior idle telegrapher, Charlotte Division, shall be allowed for all subsequent violations after July 31, 1960, as this is a continuing claim.

In support of carrier's position with respect to so-called blanket claims, the following awards are cited, to name but a few: Second Division Awards 2883, 3083, 3549; Third Division Awards 2125, 4117, 4305, 6101, 6179, 6290, 6339, 6388, 6391, 6528, 6708, 6885, 6886, 8383, 9250, 9848; and Fourth Division Awards 1214, 1393 and 1439.

As an example of the Board's findings in such cases, in Second Division Award 3549, the Board held:

"This claim as submitted is so vague, indefinite and uncertain as to make it apparently impossible to compute with certainty the amount intended to be claimed, and, if computed, it would be impossible to determine with certainty the names or identity of the several claimants in whose behalf the claim was intended to be presented and the specific amount intended to be claimed in behalf of each.

The first requirement of the Time Limit Rule is that a claim or grievance be presented in writing by or on behalf of the employee involved. When there is no identifiable claimant or ascertainable amount claimed there is no claim which can be allowed by the Carrier or sustained by the Division.

Claim dismissed."

The evidence of record does not support petitioner's contention that the agreement was violated, nor does it support the claim for pay. Carrier has shown that the claim is designed to exact monetary compensation for service not performed and not needed. There were telegraphers employed and on duty around the clock at "V" telegraph office. For the reasons set forth herein, the claim should be denied and carrier respectfully requests that the Board so decide.

(Exhibits not reproduced.)

OPINION OF BOARD: The Petitioner presents 30 claims that the effective Agreement was violated 80 times on 19 specific dates in July, 1960, when the Chief Dispatcher, Night Chief Dispatcher, Clerk Williams (Clerk to Chief Dispatcher), Clerk Bailey (Clerk to Chief Dispatcher) and T. J. Walker of Chief Dispatcher's office transmitted messages in 63 telephone conversations.

The Petitioner alleges that these violations are the result of and part of a program initiated and put into effect on a system-wide basis on or before July 3, 1960, of "removing a large portion of communication work, namely, transmitting and receiving messages and reports of record which had from time immemorial been performed by employees covered by the scope of the Telegraphers' Agreement. It is now requiring or permitting employees not coming within the scope of said Agreement to perform, by means of telephone in lieu of telegraph, printer and other mechanical telegraph machines, communication service which is reserved to employees of the classes enumerated in the Agreement. . . ."

Inasmuch as it is conceded by the petitioner that no extra employees were available on the dates in question, payment is demanded for the most senior regular assigned employees whose rest days fell on each of the dates of the

alleged violations, at time and one-half pay for each eight hours during which these alleged violations occurred.

The Petitioner also asserts "a continuing claim for all violations subsequent to the dates shown herein" for which no named claimants are specified.

Considerations

The scope rule in this Agreement is of the general type which does not define or describe work, but simply lists by title the classes of employees who are covered by the terms and provisions of the Agreement. In interpreting such general type rules, this Board has consistently applied the principle of determining whether or not the work in dispute has been performed exclusively by claimants through practice, custom and tradition, and has put the burden on the Petitioner to prove such exclusive right to the work through practice and tradition. Awards 9953, 10425, 10918, 11592, 10237, 11908, and many others.

Two other considerations have been invoked in disputes of this type and have been considered in awards by this Board. One of these is the question of whether train orders are involved. This arises because the governing Agreement deals specifically with this subject in the only place therein which assures work of explicit description to covered employees. This is in Rule 31, which protects the right of covered employees to handle train orders at offices where an operator is employed and is available or can be promptly located.

Another consideration which has been argued and weighed in claims of this type is in the nature of a guide for application of the criteria of custom, tradition and practice. This is whether the work involved constitutes a "message or report of record." In its Ex Parte Submission to us, the Petitioner states, "... under the Scope Rule and Seniority Rule 18 of this Agreement, it had been consistently recognized that the Employees under this Agreement were protected in their rights to transmit messages and reports of record and that this right had been clear going back to World War I federal control when Interpretation No. 4 to Supplement No. 13 to General Order No. 27 was issued."

Train Orders

The Petitioner has not contended or attempted to support by evidence a claim that any of the 80 messages here involved were train orders. Accordingly, this criterion is dismissed from consideration.

Exclusivity Established by Tradition, Custom and Practice

This is the determinative consideration in these claims and the parties make opposite assertions concerning the facts thereon.

The Petitioner states that "from time immemorial" the employees coming under this Agreement have been exclusively assigned to all the work claimed. The Carrier does not dispute the Petitioner's contention that the latter's members have with greater or lesser continuation done some of the work in question, but states that "from time immemorial" employees other than telegraphers in the Chief Dispatcher's office have also transmitted and received by telephone, information of the character and type which the Petitioner claims was usurped in these eighty instances.

The Petitioner's proofs for its position that work has been done by others, which had been customarily and traditionally performed by Claimants is in the form of a group of 25 exhibits (ORT Exhibits Nos. 1-25). These purport to be copies of communications to and from various Carrier personnel and deal with the general subject of instructions for handling communications. They include messages to and from Chief Dispatchers, District Freight Agent, Trainmasters, General Managers, a Vice President and Assistant Vice Presidents, and others. Also included are one message from an unidentified operator and two messages from which the names of senders are omitted. The one signed "operator" is addressed to "BG Yard" and reports an instruction allegedly given the unidentified operator by a Trainmaster. The other two are addressed to the General Chairman of the Order of Railroad Telegraphers and purport to be accounts of telephone conversations which were overheard.

The value attributed to these twenty-five exhibits by the Petitioner is that they show "by concrete evidence that the Carrier made a complete change in the handling of the communications by putting out instructions prohibiting Telegraphers from transmitting messages and reports of record and that thereafter on the enumerated dates various employes not covered by the Telegraphers' Agreement were transmitting these messages and reports of record."

The Carrier took the position on the property and before this Board that these exhibits had not been accompanied by an explanation of how they supported the Petitioner's position in respect to the specific claims made. The Carrier also states that these exhibits "merely show that carrier has attempted to eliminate unnecessary duplication of work."

We conclude from our examination and evaluation of these exhibits, that:

(1) The Carrier has not denied that these messages have been sent or offered evidence refuting the dates on which they are reported to have been sent, the identity of the senders or their contents.

(2) The messages deserve consideration for possible effect on the claims made. They have as a general common subject, instructions from Carrier supervisory and administrative personnel and others concerning the handling and routing of communications, a subject which is significantly relevant to the instant issues.

(3) Those exhibits which purport to be reports of conversations, but which bear no identification or signature of the individual professing to have heard those conversations must be deemed seriously lacking in probative worth and must be treated in our evaluations with the same weight as unsupported assertions.

(4) The remaining statements in this group of exhibits suffer, however, in their connective worth, from the fact that they are not individually or as a group accompanied by statements showing in what explicit respect they brought about changes from previous continuous practices of assigning specific types of handling to specific employes, or by evidence showing what the preceding practices had in fact been.

(5) Examining these exhibits individually, we find:

(a) Two instructions (ORT Exhibits Nos. 1 and 2) order changes which were in turn revoked by two other messages (ORT Exhibits Nos. 3 and 4). These, then, make no contribution to our inquiry.

(b) One message (ORT Exhibit No. 5) is a statement by an unidentified operator purporting to describe instructions given him, and two others allege reports of overheard telephone conversations (ORT Exhibits Nos. 13 and 24) but also bear no signatures. These will also be disregarded for reasons given above.

(c) A number of messages of instructions are addressed to operators or to operators and others or to unidentified employees or to "all concerned" and state that certain reports are to be given via phone rather than wired (ORT Exhibits Nos. 6, 7, 8, 18, 19, 20 and 21). There is nothing in these instructions to show that the messages referred to had been handled exclusively up to that point by telegraphers or that the new method would deprive them of handling them to the same extent (by phone instead of by telegram). There thus cannot be detected from these a useful contribution concerning whether the work which had been customarily and traditionally done by operators was at this point being transferred to others.

(d) One message instructs operators to desist from sending consists or delay reports to Atlanta, Ga., relay office, except personal injuries and derailments (ORT Exhibit No. 9). This does not give us any information concerning whether these had been the exclusive work of operators or whether operators would by these instructions be deprived of said work.

(e) One message instructs operator at Johnson City to continue to send messages "about alcohol delivered, loads received and delivered CC&O, etc." (ORT Exhibit No. 10). This does not indicate one way or the other whether there has been any deprivation or transfer of work.

(f) One instruction is "to all concerned" to furnish the Chief Dispatcher's office "direct" with a certain Report No. 86 (ORT Exhibit No. 12). In the absence of any further explanation, it is not clear that there has been a violative change (e.g., the improper elimination of an intervening operator).

(g) A number of other reports are addressed to other than operators or unnamed persons (i.e., to clerks, — ORT Exhibit No. 11, to yardmasters and clerks — ORT Exhibits Nos. 15 and 17) to send certain messages by phone. These do not prove that said work had been shifted from telegraphers to others. They can just as well support speculation that the phone calls would be handled in the future by both telegraphers and others to the same extent as telegraphers had in the past either wired or phoned, and the others had phoned, said types of messages.

(h) Two messages instruct various individuals that certain messages are henceforward to be sent by either mail or phone (ORT Exhibits Nos. 14 and 22). There is no indication who has done or is to do the phoning or the mailing, or how these alter, if at all, past assignments to particular employees.

(i) One instruction sets forth a form to be used by interchange clerks at Hayne Yard (ORT Exhibit No. 25), but which specifically calls for the latter to forward the forms to the Chief Dispatcher at Greenville via operator at Hayne. There is no indication that the procedure will deprive operators of work heretofore done by them by the transferring of such work to others.

(j) One instruction is to "all concerned" to "send forms 55 straight to clerk in Chief's office. Do not let it go through K office." (The latter is identified by the Petitioner as a relay office at Knoxville, Tenn.) (ORT Exhibit No. 23). This does not indicate what change, if any, is accomplished thereby from the assignment of such work from or to others.

Our conclusion from the foregoing is that these exhibits do not per se constitute persuasive evidence that work which had customarily and traditionally been exclusively reserved to telegraphers had been shifted to others. The task before us in these claims is to distinguish between the Carrier's position that both telegraphers and others have in the past customarily and traditionally handled messages of the type in dispute, and the Petitioner's position that the work has been customarily and traditionally reserved for telegraphers, and that changes have been made which take it from them and give it to others. We may be encountering here the troublesome matter of degree—that is, that although both telegraphers and non-telegraphers may have traditionally handled these matters in the past whether or not a greater amount of this work has been shifted to non-telegraphers. The Petitioner may have in mind that the evidence infers such a shift, but we do not find in the record a basis for so deciding, for two reasons:

(a) Such a quantitative determination can at best be only a speculative exercise from the facts made available to us, since we cannot tell from these what the proportion has been, how it has been changed, or what are the limits of a proportion having proper fidelity to past practices. This falls far short of satisfying the burden which necessarily rests on the Petitioner for proof that custom and tradition have reserved this work exclusively for the Claimant.

(b) Under any circumstances, the criterion for us is dependent on exclusivity. That is, it must be shown by convincing evidence that the work has been exclusively assigned, traditionally and customarily, to telegraphers. Obviously, if the work has been done in part by telegraphers and in part by others, that criterion is not satisfied. It has not been shown here that the tradition and custom has not gone both ways.

"Messages of Record"

We address ourselves now to Petitioner's allegations and argument that the messages in issue were "the transmitting and/or receiving messages, orders and/or reports of record by telephone in lieu of telegraph" and as such belong exclusively to telegraphers.

Examination of the messages involved shows that some of these of necessity had to be and were inscribed, retained and for some lesser or greater period, preserved in tangible graphic form.

We are not, however, convinced that these characteristics of these messages in themselves outweigh the more basic and overriding consideration of customary and traditional exclusivity which has had the decisive effect on our awards concerning these issues. The "record" factor has been in most cases but one aid for evaluating the history of practices. We have examined some of the historical precedents cited on behalf of the "message of record" criterion as a conclusive determinant of work jurisdiction, including many of the previous awards of this Board. We conclude therefrom that there is not a consistent line favoring the giving of predominant weight to this factor. The prevailing approach has been a search for a showing that the work had been performed exclusively by the Claimants customarily and traditionally. When the factor of "message of record" has been present, it has helped in that search by supplying support for a history of customary, traditional and exclusive practice. But it cannot by itself be dispositive. In the claims here involved, it does not alter our findings of lack of showing that the work has by practice been exclusively reserved to the Claimants.

We conclude from all the foregoing that the claims have not been supported by the required weight of evidence.

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 2nd day of July 1964.