

Award No. 12764

Docket No. TE-11742

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard J. Seff, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
GULF, MOBILE AND OHIO RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Mobile and Ohio Railroad that:

1. Carrier violated the agreement between the parties when it required or permitted Superintendent G. R. Kelly to handle train orders at Laketon, Kentucky on February 17, 19 and 26, 1959.

2. Carrier shall be required to compensate the senior idle telegrapher, extra in preference, on the seniority district, in the amount of one day's pay on each date.

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

Laketon, Kentucky is a station on the Northern Division of this Carrier. At the time cause for this claim arose, there were no positions under the Telegraphers' agreement at this station. The position of agent-telegrapher, under the agreement, which had been maintained at Laketon for many years had been abolished prior to February 15, 1959.

On February 15, 1959, about 2:50 P. M., train No. 32 derailed 38 cars at Laketon, obstructing the tracks (main line and spur track). From the time of the derailment until Thursday, February 19, trains were detoured via the Illinois Central Railroad between Rives, Tennessee and Winford Junction, Kentucky, by-passing the obstructed tracks. On February 16, Carrier began the work of clearing up the derailments and placing the main line back in service.

On February 17 train order No. 83 was received, copied, and delivered by Superintendent Kelly at Laketon. This train order was received directly from the train dispatcher on the train dispatcher's telephone circuit. The order reads as follows:

"To C&E 291 at Laketon

Engine 291 works extra 2:01 two naught one P. M. until 10:30 ten thirty P. M., between Laketon and Union City with right over all trains.

/s/ WAB"

including decisions affecting the parties here, held that the scope and train order rules of prior agreements containing identical language to the current agreement do not support the claim. The claim here presented is contrary to the agreement and is unreasonable as to practical railroad operations and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim involves the same parties and same issues as involved in Award 12761. For the reasons stated in that Award, the claim herein will also be denied.

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 17th day of July 1964.