

Award No. 13269

Docket No. TE-12762

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
READING COMPANY**

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

1. Carrier violated the Agreement between the parties when on April 14, 1960, it required or permitted an employe not covered by the Agreement to handle Train Order No. 205 at Alburtis, Pennsylvania.

2. Carrier shall compensate Edward Gallagher, Towerman, at Alburtis, in the amount of a call payment.

EMPLOYES' STATEMENT OF FACTS: The Agreement between the parties, effective April 1, 1946, corrected September 1, 1951 is available to your Board and by this reference is made a part hereof.

Alburtis, Pennsylvania, is a station on the Carrier's lines. At the time cause for this claim arose, there was one position under the Telegraphers' Agreement at this station with assigned hours 4:30 P. M. to 12:30 A. M., Monday through Saturday.

On Thursday, April 14, 1960, Conductor Miller, in charge of Extra 606 East handled (received, copied and delivered) the following train order at Alburtis:

Train Order No. 205—April 14, 1960 to C&E Extra 606 East at Alburtis reading:

"Extra 606 East has right over opposing trains and yard engines on No. 1 track Alburtis to J. Tower. Westward trains receive this Order at J. Tower."

/s/ J.F.G.

Made complete: 5:21 A. M."

proper compensation to claimant under existing rules, but would not agree that a call allowance was proper for May 18, 1960. The Organization refused to separate or so adjust the claim on the property but now, apparently after further examination, has chosen to do so by abandoning its claim for May 18, 1960. Under such circumstances, Carrier maintains that this dispute obviously is not the same claim which the parties handled on the property, and under the provisions of the Railway Labor Act, the jurisdiction of the Board is limited to the handling of disputes which have been handled in the usual manner on the property. Carrier maintains that it is not proper that the Board consider and judge only a part or portion of a claim, and respectfully submits that the claim as presented to the Board should be dismissed.

OPINION OF BOARD: This dispute involves the handling of train orders by employe not holding seniority under the Telegraphers' Agreement at a station where an operator was employed, but not on duty.

Article 34 of the Agreement is controlling in this dispute.

Handling Train Orders

"No employe other than covered by this schedule and train dispatchers will be permitted to handle train orders at telegraph or telephone offices where an operator is employed and is available or can be promptly located, except in an emergency, in which case the telegrapher will be paid for the call."

This holding is supported by a long line of awards.

The Agreement was violated when employes not holding seniority under the Telegraphers' Agreement handled train orders.

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 Employes involved in this dispute are respectively Carrier and Employes 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 5th day of February, 1965.