

Award No. 14359

Docket No. TE-11649

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

**TRANSPORTATION-COMMUNICATION EMPLOYES UNION
(FORMERLY THE ORDER OF RAILROAD TELEGRAPHERS)**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Chicago, St. Paul, Minneapolis and Omaha Railroad that:

1. The Carrier violated the agreement between the parties when it required or permitted employees not covered by the agreement to handle train orders as follows:

Date	STATION	ORDER NO.	TRAIN	COPIED BY
Nov. 23, 1958	Tuscobia, Wis.	102	Z1054	Young
Dec. 6, 1958	Trego, Wisc.	155	76	Kallenback
Dec. 13, 1958	Lakeside, Wisc.	118	74	Livingston
Dec. 18, 1958	Wascott, Wisc.	109	74	Hanson
Dec. 27, 1958	Tuscobia, Wisc.	106	X129	Boyer
Jan. 3, 1959	Tuscobia, Wisc.	113	X129	Murphy
Jan. 23, 1959	Tuscobia, Wisc.	120	172	Steuding
Jan. 23, 1959	Wascott, Wisc.	122	74	Bauer
Jan. 31, 1959	Lakeside, Wisc.	126	74	Hanson
Mar. 8, 1959	Lakeside, Wisc.	123	172	Howard
Mar. 15, 1959	Lakeside, Wisc.	116	74	Ennis

2. Carrier shall be required to compensate the senior idle employee, extra in preference, in the amount of a day's pay of eight hours for each day train orders were so handled at each location listed.

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

This dispute involves the handling of train orders by train service employees at stations where positions under the Telegraphers' Agreement formerly existed but were abolished prior to the time cause for claim arose.

On November 23, 1958, at Tuscobia, Wisconsin, Conductor Young on Extra 1054 West handled (received, copied and delivered) train order No. 102 addressed to his train reading as follows:

It will be noted that the General Chairman did not name any claimants in connection with several of the dates involved.

The claims in behalf of telegraphers R. D. Bathke, S. M. Stolts, R. A. Klug, and R. L. Pluntz for various dates listed above, from November 23, 1958 through January 3, 1959, and the claims in behalf of telegrapher C. J. Frieberg for December 13, 1958 and January 23, 1959, were not submitted to the carrier until the General Chairman submitted their claims in his letter of March 10, 1959 to the Director of Personnel. This was more than 60 days after the dates involved in the claims of these claimants, except for the claim in behalf of telegrapher C. J. Frieberg for January 23, 1959. Furthermore, none of these claims first submitted in the General Chairman's letter of March 10, 1959 to the Director of Personnel were ever submitted and handled locally with the Superintendent as required by Article V of the non-ops agreement of August 21, 1954 (page 96 of schedule agreement). Claims involving these dates were presented and handled locally, but not on behalf of the claimants named in the General Chairman's letter of March 10, 1959 to the Director of Personnel. The claims were handled locally on behalf of unnamed employees.

The claim in behalf of telegrapher C. J. Frieberg for January 31, 1959 was not submitted until the General Chairman submitted this claim in his behalf in his letter of April 2, 1959 to the Director of Personnel. This was more than sixty days after the date of claim. Furthermore, claim in behalf of telegrapher C. J. Frieberg for January 31, 1959 was never presented and handled locally with the Superintendent as required by Article V of the non-ops agreement of 1954. A claim was handled locally involving this date on behalf of an unnamed employee, but no claim on behalf of telegrapher C. J. Frieberg for this date was submitted until the General Chairman's letter of April 2, 1959 to the Director of Personnel.

Claims in behalf of telegrapher J. E. Goodwin for March 8, 1959 and in behalf of telegrapher R. J. McLeod for March 15, 1959 were submitted in the General Chairman's letter of April 2, 1959 to the Superintendent and were properly handled locally. However, in appealing the claims involving the dates of March 8 and 15, 1959, to the Director of Personnel, the General Chairman omitted the names of any claimants, and stated that claims were being submitted in behalf of "the senior idle employee, extra in preference."

In handling these claims on the property, the General Chairman also demanded the right to examine the carrier's records to identify the employees on whose behalf the claims should have been submitted. However, the "Statement of Claim" indicates that the organization has now abandoned this demand, which was not supported by any agreement between the carrier and The Order of Railroad Telegraphers.

The claims have been declined.

OPINION OF BOARD: This dispute concerns the handling of train orders by train service employees at stations where the positions of telegraphers had been abolished. Claiming a violation of Appendix H of the Telegraphers' Agreement, the Brotherhood contends that the senior idle employee, extra in preference, is entitled to a day's pay for each day train orders were handled by employees other than those covered by the Telegraphers' Agreement at the location stated.

Although Carrier does not deny that train orders were handled by con-

ductors or brakemen at closed stations, it contends that the claim does not comply with the requirements of Article V, Section 1 (a) of the National Agreement of August 21, 1954, and should be dismissed. It states that when the claim was first submitted, Claimants were not named and that later, when the Brotherhood attempted to rectify this omission, it failed to name Claimants in connection with four of the dates involved, December 6, 1958, January 23, 1959, March 8, 1959 and March 15, 1959. Moreover, Carrier contends that since the claim in behalf of Telegrapher C. J. Frieberg for January 23, 1959 was not submitted within the 60 day time limit rule, it should be barred. Carrier also urges that there is no basis for compensation because Claimants were not idle and did not suffer damage as a result of Carrier's action.

With reference to the question of whether the claim satisfies provisions of Article V, Section 1 (a) which requires that Claimants be named, we find that the claim is sufficiently clear so that Petitioners can be identified. Although the Brotherhood did submit some of the names, we do not interpret the omission of four names to mean that these employees cannot be recognized. The specific name is not essential for identification of Claimant under Article V, Section 1 (a). Numerous awards sustain this position including Awards 11662, 11919, 12148 and 12388 rendered by this Referee.

The allegation that the claim in behalf of C. J. Frieberg was not filed within the 60 day time limit rule is not supported by the record. Mr. Frieberg's name may have been submitted after the 60 day limit, but his claim was filed within the proper time limit designated by Article V.

For the reasons stated, this dispute is properly before the Board. Since Appendix H of the Telegraphers' Agreement was violated, we hold that the senior idle employee, extra in preference, is entitled to a day's pay on the dates enumerated.

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 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 violated.

AWARD

Claim is sustained in accordance with above Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April, 1966.

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