

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD

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

1. Carrier violated the Agreement between the parties hereto when, at 6:13 A. M., on September 17, 1961, it required or permitted an employe not within the scope of the said Agreement, at its Herington, Kansas Yard Office, to transmit by radio, and a second employe not within said scope on Extra 120 West at White City, Kansas, to receive by radio, Train Order No. 16 of that date.

2. Carrier shall be required to pay one call to C. R. Smalley, senior Telegrapher off duty at Herington, Kansas, and one call to R. M. Marts, Agent-Telegrapher off duty at White City, Kansas, under the appropriate rules of the said Agreement.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective August 1, 1947, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

The territory upon which this violation occurred is known as Subdivision 36 of the Missouri-Kansas Division of this Carrier's lines. This Subdivision extends from Kansas City, Missouri to Herington, Kansas. Between Kansas City and Topeka, Rock Island trains operate over the Union Pacific tracks and are subject to Union Pacific rules under the supervision of Union Pacific Train Dispatchers. Between Topeka and Herington, a distance of about 80 miles, Rock Island trains operate over Rock Island tracks subject to Rock Island rules and under the supervision of Rock Island Train Dispatchers. This is train order territory with nine train order offices. The time table in effect at the time cause for this claim arose, designates this territory as "Two Main Tracks, Automatic Block Signals." And, "Signal Indications, Rules 450-453 In Effect."

- A. October 11, 1961 letter from General Chairman filing claims.
- B. November 15, 1961 letter from Superintendent declining claims.
- C. November 17, 1961 letter from General Chairman appealing claims.
- D. December 28, 1961 letter from Vice President-Personnel declining claims.
- E. January 12, 1962 letter from General Chairman.
- F. July 17, 1962 letter and attachment from General Chairman.
- G. August 8, 1962 letter from Vice President-Personnel.
- H. August 21, 1962 letter from General Chairman.

(Exhibits not reproduced.)

OPINION OF BOARD: At 6:13 A.M. on September 17, 1961, the engineer of Extra 120 West, using radio-telephone, at White City, Kansas, asked a yard clerk at Herington what time was out on Train No. 3. The clerk consulted Train Order No. 16 which had previously been issued by the train dispatcher to the yard crew at Herington, and told the engineer that Train No. 3 would wait at Latimer until 6:40 A.M. With this information the engineer of Extra 120 proceeded to Herington, arriving at 6:25 A.M. No. 3 arrived at 7:00 A.M.

Claim is made that the engineer and yard clerk violated Rule 24 of the agreement by transmitting and handling a train order. Rule 24 provides:

"RULE 24. HANDLING OF TRAIN ORDERS. No employee 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, can be promptly located and is available, except in an emergency, in which case the telegrapher will be notified and paid for the call. (See Memorandum No. 27, Page 111.)"

The territory through which Extra 120 and Train No. 3 were moving was governed by signal indications. The Operating Rules of the Carrier provide that train orders are not required for the movement of trains and engines in specified direction by indication of block signals although block signals do not supersede train orders. They also provide that trains or engines instructed to clear main track for following trains must keep closely advised of trains to be cleared to avoid delay.

The Organization argued that the term "train order" means a formal directive concerning conditions affecting the movement of trains. Not all information affecting the movement of trains is, however, a train order. A distinction must be made between information which is directed at and intended for the movement of trains and that which indirectly and incidentally affects a train movement.

The information relayed by the clerk here was not directed at nor intended to affect Extra 120. The Organization argued that it was analogous to a train order in that it did affect its movement. An analysis of the facts shows that the relayed information affected the movement of the extra only in a negative way, i.e., it did not change any of the authority it had to proceed. It did not add to or detract from its general authority but merely confirmed that Extra 120's right to proceed under signal indication was unimpaired. In this sense it was not a train order but mere information about the contents of a train order and therefore not governed by Rule 24.

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 Carrier did not violate the Agreement.

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 June 1966.