



Award No. 15337
Docket No. TE-14365

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

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

NEW YORK CENTRAL RAILROAD
(Southern District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the New York Central System (Southern District), that:

CLAIM NO. 1

1. Carrier violated Agreement when on the 17th day of July, 1962, it failed and refused to permit N. J. Elkins, Second Trick Operator-Clerk, Urbana-Yard, Urbana, Illinois, to deliver train order No. 24 addressed to C&E All Eastward trains, ITC Engine 781 and Operator, but instead required Operator N. J. Elkins to leave said train order, with clearance Form A, on the train register at Urbana-Yard Office, at the end of her tour of duty (3:00 A.M.) which orders were later picked up by train service employees of said train.

2. Carrier shall compensate N. J. Elkins for two hours at one and one-half times pro-rata hourly rate of the second shift telegrapher-clerk position, Urbana, Illinois, (pro-rata hourly rate \$2.524).

CLAIM NO. 2

1. Carrier violated Agreement when on the 21st day of July, 1962, it failed and refused to permit J. H. Davis, second trick operator-clerk, Urbana-Yard, Urbana, Illinois, to deliver train order No. 22 addressed to: Eastward trains, ITC Engine 783 and operator, but instead required Operator J. H. Davis to leave said train order, with clearance Form A, on the train register at Urbana-Yard Office, at the end of his tour of duty (3:00 A.M.), which orders were later picked up by train service employees of said train.

2. Carrier shall compensate Mr. J. H. Davis for two hours at one and one-half times pro-rata hourly rate of the second shift telegrapher-clerk position, Urbana-Yard, Urbana, Illinois (pro-rata hourly rate \$2.626).

3. Carrier shall compensate Mr. J. H. Davis, second trick telegrapher-clerk Urbana-Yard, Urbana, Illinois and N. J. Elkins, the regular relief telegrapher-clerk Urbana-Yard, Urbana, Illinois, or their successors, beginning Tuesday, July 17, 1962, for two hours at one and one-half times pro-rata hourly rate and continuing thereafter for each time the agreement is violated, as stated in paragraph 1 above until the violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: At Urbana, Illinois, the Carrier had negotiated prior to June 27, 1962, three telegrapher positions which were seven-day positions. The following Bulletin Order No. 15 to Time-Table No. 7 was issued on June 26, 1962:

"Effective June 27, Urbana-yard is an open Station as follows:

7:00 A. M. to 3:00 P. M. Daily

7:00 P. M. to 3:00 A. M. Daily

/s/ C. E. Dye
Chief Dispatcher"

The I. T. C. Railroad has trackage rights over the Peoria & Eastern Railway from Champaign, Illinois, to Fithian, Illinois, and runs a train working extra between Champaign and Fithian about three or four times a week, serving the Delong Elevator, the C&EI connection at Glover, and the P&E connection at Urbana, Illinois.

Under date of June 26, 1962, the following message was issued:

"Indianapolis
June 26, 1962

To D. A. Larson T. M.
Operators Urbana, Illinois

Effective today when an ITC train is due to leave Urbana after the Operator is off duty, the Operator will leave the clearance card and Orders on the Train Register at Urbana where the I. T. C. Crew can pick them up. This will eliminate holding the Operator on duty. Joint.

/s/ C. E. D.
10:10 A. M."

N. J. Elkins is the owner of the relief assignment at Urbana Yard, Urbana, Illinois, with assigned days as follows:

Saturday and Sunday	—	First shift
Monday and Tuesday	—	Second shift
Wednesday	—	Third shift at Wyton, Danville, Illinois.

He was working as the second shift operator at Urbana Yard with assigned hours of 7:00 P. M. to 3:00 A. M. on Tuesday, July 17. On the morning of July 17, 1962, at 3:02 A. M. the train dispatcher transmitted by the use of the telephone to Claimant Elkins the following train order:

Again on July 21, 1962 a clearance Form A and the following train order No. 22 was issued to Claimant Operator-Clerk Davis:

"To C&E: Eastward Trains

ITC Engine 783 and Operators:

ITC Engine 783 work extra 2:59, two five nine A. M., until 7:59 seven five nine A. M., between Urbana-Yard and Fithian with right over all trains.

/s/ C. E. D.

Complete. 2:58 A. M. Davis, Operator"

Immediately after completion of the aforequoted train orders and clearance Forms A, the Claimants were released and the train orders were picked up by the Illinois Terminal Railroad crews at 3:30 A. M. and 3:40 A. M. on July 17 and 21, respectively.

The Organization contends that a violation of the Agreement occurred when the train orders were picked up by the Illinois Terminal Railroad crews at a time when there was no Operator-Clerk on duty and Claimants should have been used on a "call" basis to personally deliver the orders into the hands of the Conductor and Engineer.

Claims have been progressed through the prescribed channels in accordance with Time Limits on Claims Rule.

OPINION OF BOARD: The facts set forth in paragraph 1, of both claims are undisputed. Article 19 of the Agreement between the parties, or its equivalent in other agreements, has been the subject of interpretation in numerous previous decisions by this Board. See Award 13870, among others. Following our previous decisions, we must sustain Claim No. 1 and parts one (1) and two (2) of Claim No. 2.

The Agreement, however, contains no provision whereby the records of either party shall be opened for the other's inspection as a means of establishing suspected claims. Nor does the record support the allegation of a continuing violation of the rule. We, therefore, agree with the Carrier that part three (3) of Claim No. 2 must be denied. See Award 10914.

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

Claim No. 1 — Agreement was violated.

Claim No. 2, parts one (1) and two (2) — Agreement was violated.

Claim No. 2, part three (3) — Agreement was not violated.

AWARD

Claim No. 1 is sustained.

Claim No. 2, parts one (1) and two (2) are sustained.

Claim No. 2, part three (3) is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of February 1967.