

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

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

LEHIGH VALLEY RAILROAD COMPANY

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

1. Carrier violated the Agreement of February 15, 1961 when and because it failed or refused to pay the extra telegraph service employe of the Seneca District first out on each day—November 25 and November 26, 1962, account communication work of record being performed at Ithaca, New York by non-scope employes on each of those dates.

2. Carrier shall now be required to pay the extra telegraph service employe of the Seneca District, first out at the time communication work of record involved in this claim was performed at Ithaca, for eight hours at the applicable Ithaca rate (\$2.6928 per hour) to cover each day involved, November 25 and 26, 1962.

3. A joint check of Carrier's records be conducted to ascertain the name of the telegraph service employe of the Seneca District who stood first out at the time communication work of record was performed by non-scope employes at Ithaca on each of the two days set out above.

EMPLOYEES' STATEMENT OF FACTS: The correspondence exchanged between the parties in the property handling of this claim is reproduced and attached hereto as ORT Exhibits 1 through 9. A review of said correspondence will fully disclose that the facts of the case, the details and incidents relative thereto, the basis for the claim, the rules advanced in support of the claim, the respective positions of the parties, arguments by each in support of their position, and the area of disagreement, are amply manifested in the documented record. With the exhibited correspondence being part of this submission, there is therefore no need for reiteration of those points, except to the extent touched upon in the Position of the Employes.

Train and engine employes and other employes have copied train orders using the same yard telephone at the same yard location point involved in this claim during the time the Ticket Agent-Telegrapher was employed at Ithaca, New York, passenger station, both during and after the hours the Ticket Agent-Telegrapher was on duty.

The schedule of rules agreement between the parties, referred to above, was supplemented with an agreement dated February 15, 1961, copy of which is attached at Carrier's Exhibit A and is also made a part of this submission.

Due to the handling of the above two (2) train orders during the same tour of duty by the third trick Sayre, Pennsylvania, operator, claimant is seeking two days' pay. As the claim is without merit and without support of the rules, it was denied when presented on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: The only question in this docket that is different from the circumstances in Award 15937 is whether or not the yard telephone used, same being two miles from the Ithaca Station site, is within the "geographical locality" of said station point and thereby included under the Agreement of 15 February, 1961.

We believe that there is a substantial factual distinction between a wayside telephone near the station site, as was the situation in the hereinbefore cited award, and a yard telephone two miles away. The distance from the focal point or actual site of the station is such that it becomes immediately apparent that the parties did not intend to include same within the 15 February, 1961, Agreement. To rule otherwise would have the effect of increasing the Craft's work rights when it is manifestly clear that the Carrier was bargaining for dualization and the Organization was bargaining for "preservation of the work" at the points named in said Agreement.

We cannot and will not now expand the 15 February, 1961, Agreement beyond its contractual manifestations. Award 11675 (Rinehart). Therefore, the claim is denied.

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 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 17th day of November 1967.

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