



Award Number 17336

Docket Number TE-16954

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David H. Brown, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

**THE NEW YORK, NEW HAVEN AND HARTFORD RAIL-
ROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the New York, New Haven and Hartford Railroad, that:

- (a) Carrier violated the Agreement between the parties when on February 18, 1966, it required or permitted an employee not covered by the Agreement (Conductor of Tamper B-27), to copy a message permitting this machine to occupy the main track and to obtain the block at Seymour, Connecticut.
- (b) As a result of this violation, Carrier shall pay Mr. G. W. Wheeler, the regularly assigned agent-operator at Seymour, hours 9:00 A.M. to 6:00 P.M., a call, two hours at one and one-half times the rate of his position.

EMPLOYEES' STATEMENT OF FACTS: An Agreement between the New York, New Haven and Hartford Railroad Company and this Union, dated September 1, 1949, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

This claim was presented and progressed in accordance with the time limits provided by the Agreement, up to and including appeal and conference with the highest officer designated by the Carrier to receive appeals. Having failed to reach a settlement, the Employees now appeal to your Honorable Board for adjudication.

The correspondence exchanged between the parties on the property has been reproduced and is attached to this submission as TCU Exhibits 1 through 9.

That portion of the Carrier involved in these claims is operated by time table, train orders and manual block system. Tampers are heavy flange wheeled self propelled vehicles and are operated in the same manner as a motor hand car as defined in Carrier's Book of Rules as follows. These heavy vehicles can be removed from the train only if special facilities are provided, hence a conductor in charge.

"MOTOR HAND CAR OPERATION.

DEFINITION.

Motor Hand Car.—A motor driven railway work or inspection car, numbered for identification, with or without trailer cars.

OPINION OF BOARD: The instant claim is good under our decisions on this property represented by our Awards 5431, 8183 and 14301.

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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1969