

Award No. 18273

Docket No. TE-17653

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David L. Kabaker, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

ERIE-LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Transportation-Communication Employees Union on the Erie-Lackawanna Railroad, that:

CLAIM NO. I

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at North Randall, Ohio on dates as outlined below.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent-operator at North Randall, Ohio a three hour call at the time and one-half rate of pay for each violation on August 21, 22, 23 and 24, 1966.

CLAIM NO II

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at North Randall, Ohio on dates as outlined below.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent-operator at North Randall, Ohio a three hour call at the time and one-half rate of pay for each violation on August 25, 26, 27, 28, 29, 30, 31 and September 1, 1966.

CLAIM NO. III

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at North Randall, Ohio on dates as outlined below.

2. Carrier shall, because of violations in (1) above, be required to compensate the agent-operator at North Randall, Ohio a

three hour call at time and one-half rate of pay for each violation September 8, 9, 10 and 11, 1966.

CLAIM NO. IV

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at North Randall, Ohio on dates as outlined below.

2. Carrier shall, because of violations in (1) above, be required to compensate the agent-operator at North Randall, Ohio a three hour call at the time and one-half rate of pay for each violation, September 12, 13, 14 and 15, 1966.

CLAIM NO. V

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at North Randall, Ohio on dates as outlined below.

2. Carrier shall, because of violations in (1) above, be required to compensate the agent-operator at North Randall, Ohio a three hour call at the time and one-half rate of pay for each violation on September 2, 3, 4, 5 and 7, 1966.

CLAIM NO. VI

1. Carrier violated the Agreement by causing, requiring and permitting Conductor Lautner to handle (receive, copy and deliver) train orders at RB on July 30, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the senior, idle operator (extra in preference) a day's pay at the rate of that provided in Rule 25 for specified date.

CLAIM NO. VII

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at HM on dates as specified below.

2. Carrier shall, because of violations in (1) above, be required to compensate the senior, idle operator (extra in preference) a day's pay at the rate provided in Rule 25-e for dates of violation on September 10, 17, 19, 25, 28, October 5, 8 and 12, 1966.

CLAIM NO. VIII

1. Carrier violated the Agreement by causing, requiring and permitting Engineer Skipton to handle (receive, copy and deliver) train orders at HM on March 22, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the senior, idle operator (extra in preference) a day's pay at the rate of that provided in Rule 25(e) of the Agreement, for specified date.

CLAIM NO. IX

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at XR on various dates as outlined below.

2. Carrier shall, because of violations in (1) above, be required to compensate the senior, idle operator (extra in preference) a day's pay at the rate provided in Rule 25(e) of Agreement for each train order handled by conductors on March 28, 1966, April 14, 18, May 5, 6, 8, 9, 1966.

CLAIM NO. X

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at XR on various dates as outlined below.

2. Carrier shall, because of violations in (1) above, be required to compensate the senior, idle operator (extra in preference) a day's pay at the rate provided in Rule 25 for each order handled by conductors on June 15, 22, July 30, 1966, August 3, 24, 25, September 1, 2, 8, 10, 11, 13, 14, 15, 16, 18 and 19, 1966.

CLAIM NO. XI

1. Carrier violated the Agreement by causing, requiring and permitting Conductor Marchbanks to handle (receive, copy and deliver) train order at Mahoning on July 19, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent-operator at Garrettsville, Ohio a three hour call at the time and one-half rate for July 19.

CLAIM NO. XII

1. Carrier violated the Agreement by causing, requiring and permitting Engineer Campbell and Conductor Kincaid to handle (receive, copy and deliver) train orders at HM on August 3, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the senior, idle telegrapher a day's wages in accordance with the rules.

CLAIM NO. XIII

1. Carrier violated the Agreement by permitting, causing and requiring Conductor Davis to handle (receive, copy and deliver) train order at Mantua, Ohio on June 3, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the senior, idle telegrapher (extra in preference) a day's pay at the rate in accordance with Rule 25, as amended.

CLAIM NO. XIV

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at Mahoning on dates as specified below.

2. Carrier shall, because of violations in (1) above, be required to compensate the agent-operator at Garrettsville, Ohio a three hour call at the time and one-half rate of pay for each violation on June 21, 24, 25, July 5 and 9, 1966.

CLAIM NO. XV

1. Carrier violated the Agreement by causing, requiring and permitting Conductor DeChance to handle (receive, copy and deliver) train orders at Solon, Ohio on July 6, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent-operator at North Randall, Ohio a three hour call at the time and one-half rate of pay for violation in (1) above.

CLAIM NO. XVI

1. Carrier violated the Agreement by causing, requiring and permitting conductors of Cleveland Local to handle (receive, copy and deliver) train orders at Mahoning, Ohio on dates of January 19, 28, February 1, 11 and 12, 1966.

2. Carrier shall, because of violations in (1) above, be required to compensate the senior idle telegrapher (extra in preference) a day's pay at the rate of \$2.5378 per hour, plus all increases since January 1, 1964 for dates as listed.

CLAIM NO. XVII

1. Carrier violated the Agreement by causing, requiring and permitting conductors of various trains to handle (receive, copy and deliver) train orders at Mahoning on dates as specified below.

2. Carrier shall because of violations in (1) above, be required to compensate the agent-operator at Garrettsville, Ohio a three hour call at the time and one-half rate of pay for each violation on May 20, June 15, 16 and 18, 1966.

CLAIM NO. XVIII

1. Carrier violated the Agreement by causing, requiring and permitting Conductor Reinhart to handle (receive, copy and deliver) train order at Geauga Lake, Ohio on May 7, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent at Aurora, Ohio a three hour call at the time and one-half rate of pay.

CLAIM NO. XIX

1. Carrier violated the Agreement by causing, requiring and permitting Conductor Ratowski to handle (receive, copy and deliver) train order at Geauga Lake, Ohio on October 1, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent-operator at Aurora, Ohio a three hour call at the time and one-half rate of pay for this date.

CLAIM NO. XX

1. Carrier violated the Agreement by causing, requiring and permitting Conductor Anderson to receive, copy and deliver train orders at Mantua, Ohio on February 5, 1966.

CLAIM NO. XXI

1. Carrier violated the Agreement by causing, requiring and permitting Conductor Ratowski to handle (receive, copy and deliver) train order at Mantua, Ohio on October 4, 1966.

2. Carrier shall, because of violation in (1) above, be required to compensate the agent-operator at Garrettsville, Ohio a three hour call at the time and one-half rate of pay for this date.

EMPLOYES' STATEMENT OF FACTS:

(a) STATEMENT OF THE CASE

An Agreement between the Erie Railroad Company and this Union, effective March 4, 1957, as amended and supplemented, is available to your Board and by this reference, is made a part hereof.

These claims were timely presented and progressed in accordance with the provisions of the Agreement, including conference with the highest Officer designated by the Carrier to receive appeals and have been declined. The Employees therefore appeal to your Honorable Board for adjudication.

The incidents that gave rise to these claims occurred on Carrier's formerly double tracked main line between Warren, Ohio and Cleveland, Ohio. As will be explained in greater detail later in this submission, there are now two sections of single track, three sections of double track remaining. The single track sections are equipped with an Automatic Permissive Block System known as (APB) — a term used for an Automatic Block Signal System on a track signalled to protect trains moving in both directions. Trains moving in either direction activate stop and caution signals against opposing trains and stop and caution signals to the rear, thus protecting the movement by signals in both directions, opposing or following. Where under the double track operation, few train orders were required, these were always handled by telegraphers except in cases of real emergency,

division which are listed in the working timetable in effect during the period of these claims are as follows:

1003. MAHONING DIVISION

STATION	MONDAY TO FRIDAY	SATURDAYS, SUNDAYS AND HOLIDAYS
North Randall	7:00 AM to 11:00 AM 12 Noon to 4:00 PM	Closed
Aurora	6:45 AM to 11:45 AM 12:45 PM to 3:45 PM	Closed

No operators have ever been employed at "CA" MP 14.0; "XR" MP 14.9; "KS", MP 32.7; "HM" MP 34.2; or "RB" MP 48.3. There has been no operator employed at Mahoning, Ohio since 1928, or at Geauga Lake since August 1, 1960. The Agent-Operator positions at Solon and Mantua, Ohio were abolished on May 1, 1964 and June 5, 1965 respectively, following approval of the Public Utility Commission of Ohio to change the status of the agencies to non-agencies, carload freight only stations.

The claim and appeal of the Organization in the 21 claims are basically the same, and in order to reduce the volume of this brief, only correspondence of relevance indicative of handling all the claims on the property is attached in evidence as follows:

CARRIER EXHIBIT

- A-1 District Chairman's letter to Superintendent dated September 26, 1966.
- C Superintendent's letter to Division Chairman dated November 2, 1966.
- D General Chairman's letter to General Manager-Labor Relations dated December 8, 1966.
- E General Manager-Labor Relations letter to General Chairman dated January 24, 1967.
- F General Manager-Labor Relations letter to General Chairman dated March 29, 1967.
- G General Chairman's letter to General Manager-Labor Relations dated December 4, 1967.

Before Carrier had an opportunity to answer all the assertions and allegations made by the General Chairman in his letter dated December 4, 1967 (Carrier Exhibit G), notice was received from Mr. G. E. Leighty on December 19, 1967, that the claims were being progressed to the Third Division, National Railroad Adjustment Board for adjudication.

(Exhibits not reproduced.)

OPINION OF BOARD: This case was heard jointly with Award Nos. 18271, 18272, 18274 and 18275.

In regard to Claims 1, 2, 3, 4 and 5 which relate to handling train orders at Cannons, the Petitioner bases its claims on the same contentions which it set forth in Award 18271.

The Board is of the opinion that the conclusions for its Award 18271 are equally applicable herein. Accordingly, Claims 1, 2, 3, 4 and 5 are denied for the reasons specifically set forth in Award 18271.

In relations to Claims 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, the Board must conclude that the Petitioner has failed to sustain its burden of proving that a violation of Rule 2 occurred when Conductors and Engineers handled train orders as alleged in said Claims. Accordingly, the above listed Claims will be 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 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 not violated.

AWARD

Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 are denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of November 1970.