

SPECIAL BOARD OF ADJUSTMENT NO. 132

PARTIES: THE ORDER OF RAILROAD TELEGRAPHERS
 THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 72

STATEMENT
OF CLAIM:

1. Carrier violated the agreement between the parties hereto when on October 14, 15, 17 and 18, 1947, it permitted, caused and required a Track Supervisor or Section Foreman, employees not covered by the Telegraphers' Agreement to handle (receive, copy and deliver) train line-ups for men laying rail east of Holmes, Pennsylvania, which work was and is reserved solely to employees covered by the Telegraphers' Agreement.

2. Carrier be required to compensate the senior idle telegrapher for one day's pay (8 hours) on each of the dates listed above.

FINDINGS:

This claim is based upon an asserted violation of the Telegraphers' Agreement because Track Supervisors or Section Foremen secured line-ups when section gangs were laying rail east of Holmes, Pennsylvania. By use of a portable telephone the Supervisor or Foreman requested line-up of trains, through the nearest telegraph office, from the Train Dispatcher who was thus informed of when the track would be opened. When the track was closed the information was relayed to the Dispatcher in the same manner.

In denying this claim by letter dated January 19, 1948 the Carrier's highest officer stated in part to the Organization's General Chairman:

"Investigation developed it has never been the practice to use operators in our rail laying gangs and we take the position that there is no violation of the rule referred to above.

"I might add, however, that in cases where rail is laid in multiple track territory and the gang is given one of the tracks necessitating reverse movement of train, an operator is used at the crossover where routing is reversed and normal route is resumed."

The position taken by the Carrier Officer in that letter is supported by earlier exchange of correspondence between Carrier officers and previous General Chairmen of the Organization in the making of earlier settlements on the property where claims were paid because employees other than telegraphers were used to "single-line" trains where rail was being laid in multiple track territory. That the practice was as indicated in the aforesaid letter is further supported by the Interpretation to Article 33 which reads as follows:

"During period of construction, other than railroad construction, such as repairing or rebuilding highways, bridges, grade crossing elimination, etc., where contractors or others engaged in construction work require information by use of telephone regarding location of trains, etc., for the protection of

"workmen, construction equipment, etc., the provisions of this Article will apply and telegraphers or telephoners will be employed.

"This interpretation is not intended to change existing practices of Maintenance of Way men obtaining such information by telephone when it is necessary to open the track for maintenance, repairs, etc."

From the above it is apparent that by express interpretation and by conduct the parties have recognized that the scope of the Telegraphers' Agreement does not cover communication work by telephone when performed by Maintenance of Way men to secure information about train movements when necessary as it was in this instance to open track for maintenance and repairs. Inasmuch as that is the only work relied upon by the employees as a basis for claim it follows that a denial Award is indicated.

AWARD

Claim (1) and (2) denied.

/s/Francis J. Robertson
Francis J. Robertson
Chairman

/s/ B. N. Kinkead
B. N. Kinkead
Employee Member
Dissenting

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Md., this
26th day of April, 1957.