



ORT FILE: 1851
AWARD NO. 4
CASE NO. 4

SPECIAL BOARD OF ADJUSTMENT NO. 266
THE ORDER OF RAILROAD TELEGRAPHERS

vs.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the provisions of the Telegraphers' Agreement when and because at 6:39 P.M., February 26, 1953, it issued Train Order No. 110 at Stroudsburg Tower which governed the movement of Engine 662-A between Portland and Netcong and which was directed to be carried into Portland from Stroudsburg by another train for delivery to the addressees at Portland and at a time agent-operator Dalberg at Portland was off duty; in consequence thereof Agent Dalberg shall be allowed a "call" payment under Article 5(a) of the Telegraphers' Agreement.
2. The Carrier violated the provisions of the Telegraphers Agreement when and because at 6:16 P.M. on December 18, 1952 it issued Train Order No. 11 at Bernardsville which was addressed to Train No. 431 at Gladstone, which governed the movement of Train No. 431 out of Gladstone and which was directed to be carried into Gladstone for delivery by train No. 428 to Train No. 431 at a time the operator at Gladstone was off duty; in consequence of this violation and similar violations on subsequent dates operator R. A. Pellock or his successors at Gladstone shall be allowed a "call" payment for each such violation in accordance with the provisions of Article 5(a) of the Telegraphers' Agreement. The records to be jointly checked to determine the payee or payees subsequent to December 18, 1952.

OPINION OF BOARD:

Claim 1 protests Carrier's action in issuing through the Operator at Stroudsburg on double track a train order which was given to a train crew for subsequent execution on single track between Portland and Netcong. It is contended this train order should have been handled at Portland, and that the Operator regularly assigned there should have been called during his off-duty hours for this purpose. The Organization contends that Extra 662-A, to which the order was given at Stroudsburg, was a different train after its arrival at Portland. The train order was as follows:

"Train Order No. 110

February 26, 1953

"To C. & E. Engine 662-A AT Stroudsburg, Pa.
Engine 662-A run extra Portland to Netcong. Extra 913
west has right over extra 662-A east Netcong to
Washington.

J.A.C.

Complete 6:39 p.m.

Smith, Operator."

The same train moved from Stroudsburg to Netcong via Portland in this instance. Under this circumstance there was no requirement that the subject train order must be issued at Portland. It could be issued through an Operator at any point along the route followed by this train. This was in fact a single run from Scranton to Port Morris. Thus there is no merit to this claim.

Claim 2 arises out of the following facts: On December 18, 1952 a train order was issued and addressed to train No. 428 at Gladstone, to be carried from Bernardsville westward to that point by train No. 431. The order governed the Eastbound run of train No. 428 from Gladstone. The same crew and equipment made the run in both directions, however, there being a brief layover at Gladstone. The Organization contends the Operator regularly assigned at Gladstone should have been called during his off duty hours to handle this train order. It states that on subsequent dates there was a similar handling of orders governing train movement out of Gladstone, except that such orders were handed to a train crew by Operators at Summit rather than at Bernardsville.

The Adjustment Board has previously held in various awards (e.g., 5087, 6124) that in instances of this type the Operators at the point of execution should have been called to handle the train order. We are not confronted with a single run, as in the first claim of this case, nor do we have here a single order for a round trip as in Award 4819. Thus this claim must be sustained for December 18, 1952 and for the subsequent dates as specified at page 2 of the Organization's ex-parte submission.

A W A R D:

Claim 1 denied. Claim 2 sustained to the extent indicated above.

/s/ Lloyd H. Bailer
Lloyd H. Bailer, Neutral Member

/s/ W. I. Christopher
W. I. Christopher, Employee Member

/s/ F. Diegtel
F. Diegtel, Carrier Member

New York, New York
July 8, 1959.