



ORT FILE: 1878
AWARD NO. 5
CASE NO. 5

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

vs.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM:

CLAIM NO. 1

Carrier violated the terms of the Telegraphers' Agreement when and because on April 1, 1953 it required or permitted a clerk at Berwick to transmit a message to Scranton at a time Operator-Clerk Dalto, at Berwick, was off duty; in consequence thereof Dalto shall be allowed a "call" payment in the amount of \$5.61.

CLAIM NO. 2

Carrier violated the terms of the Telegraphers' Agreement when and because on April 1, 1953 it required or permitted the Agent at Berwick (not under the Telegraphers' Agreement) to transmit a message to a distant office at a time Operator-clerk Dalto at Berwick was off duty; in consequence thereof Dalto shall be allowed a "call" payment in the amount of \$5.61.

CLAIM NO. 3

Carrier violated the Telegraphers' Agreement when and because (a) on the dates listed in the Employees' Statement of Facts, below, and subsequent dates it required or permitted a clerk at Berwick to transmit messages or reports to a car distributor (not under the Telegraphers' Agreement at Scranton at times the clerk-operator at Berwick was off duty, and (b) on the dates listed in the Employees' Statement of Facts, below, and subsequent dates it required or permitted the car distributor at Scranton to copy the messages or reports transmitted by the clerk at Berwick; in consequence thereof as to (a) above, operator-clerk at Berwick shall be allowed a "call" payment on each and every occasion, and as to (b) above, the senior idle employee under the Telegraphers' Agreement, extra in preference, shall be allowed a day's pay on each and every occasion. The records to be jointly checked to determine the payees.

OPINION OF BOARD:

The agency position at Berwick is outside the Telegraphers' Agreement. At the time in question only one Operator-Clerk was employed there, with assigned hours of 3:00 p.m. to Midnight, one hour out for meal, five days per week. A clerical position, which is covered by agreement with a different organization, also existed at this location.

In Claim 1 the Clerk placed an order for cars by telephone with the Car Distributor at Scranton, this being done when the Operator-Clerk was off duty. In Claim 2 the Supervisory Agent at Berwick called the Scranton Ticket Office

Award No. 5
Case No. 5

to arrange for a reservation for one of Carrier's patrons, this also occurring outside the Operator-Clerk's assigned hours. Claim 3 involves the action of either the Agent or Clerk at Berwick in transmitting by telephone to the Car Distributor at Scranton messages or reports regarding cars on hand, etc. at times when the Operator-Clerk was not on duty. In all three of these claims call payments are requested for said Operator-Clerk. The Organization also requests a day's pay for each of the involved dates on which the Car Distributor at Scranton copied the reports involved in Claim 3.

The evidence establishes that while employees covered by the subject Agreement have handled reports or messages of this type over the years, employees outside the Agreement have also traditionally transmitted and received communications of this character. Thus there is no past practice wherein telegraph service employees have handled such communications to the exclusion of others. In view of the general nature of the scope rule of the Agreement, we must hold that none of the actions complained of represent a violation thereof.

A W A R D :

Claims 1, 2 and 3 denied.

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

Dissenting
W. I. Christopher, Employee Member

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

New York, New York
July 7, 1959