

406-3

AWARD NO. 78
CASE NO. 84
263/ 2-11
(104-57)

SPECIAL BOARD OF ADJUSTMENT NO. 266

THE ORDER OF RAILROAD TELEGRAPHERS

vs.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM:

Claim for a day's pay in favor of senior idle telegrapher, extra man preferred, on September 21, 1957, when a non-schedule employe handled train orders at Mt. Pocono in a non-emergency situation.

OPINION OF BOARD:

Eastbound freight train BH-12 developed a hot box at Mt. Pocono, Pa. on one of its cars. As a result, a train order was issued instructing train 44 to operate around train BH-12 between Pocono Summit and Paradise Crossover against the current of traffic. A copy of this train order was telephoned to the conductor of train BH-12. The subject claim is based on the contention that the handling of this train order by the conductor of train BH-12 was not due to an emergency and therefore was in violation of the subject Agreement. We have previously held in like situations that an emergency condition existed within the meaning of Article 3 of the Agreement. Thus the handling of the instant train order by the conductor of the disabled train was not a contract violation.

AWARD:

Claim denied.

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

DISSENTING
W. I. Christopher, Employe Member

/s/ R. A. Carroll
R. A. Carroll, Carrier Member

New York, N.Y.
December 3, 1959.