

RECEIVED
MAY 11 1951
J. J. BERTA
SPECIAL BOARD OF ADJUSTMENT NO. 266
THE ORDER OF RAILROAD TELEGRAPHERS
vs.
THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

ORT FILE: 1887
AWARD NO. 8
CASE NO. 8

STATEMENT OF CLAIM:

CLAIM NO. 1

The Carrier violated the Telegraphers' Agreement when and because on Sunday, March 13, 1949 it required or permitted Yardmaster McGorarity, at Kingston, to transmit a message to Conductor Garvey at Bloomsburg at a time both the Operator-clerk, C. E. Cotner, at Bloomsburg, and operator-clerk, J. E. Gannon, at Kingston Yard, were off duty; in consequence thereof Cotner shall be paid a 'call' in the amount of \$5.99 and a similar payment to Gannon in the amount of \$5.85.

CLAIM NO. 2

The Carrier violated the Telegraphers' Agreement when and because on each September 26, 1950 and October 19, 1950, it required or permitted a yardmaster at Kingston to copy train consists from distant points; in consequence thereof the senior idle employe, extra in preference, shall be allowed a day's pay on each of these dates and on any subsequent date the violation continues. The records to be jointly checked to determine the payees.

CLAIM NO. 3

The Carrier violated the Telegraphers' Agreement when and because on October 6, 1950, it required or permitted the conductor in charge of train 1734 at Hanover Yard to transmit a message to a yardmaster at Kingston Yard; in consequence thereof for this date and subsequent dates when similar messages are so handled two senior idle employes, extra in preference, shall be allowed a day's pay for work denied at each, Hanover Yard and Kingston Yard. The records shall be jointly check to determine the payees.

CLAIM NO. 4

Carrier violated the Telegraphers' Agreement when and because on October 31, 1950 it required or permitted Conductor Finnerty in charge of Extra 2135 west to transmit a message from Wyoming Storage to a clerk at Kingston Yard; in consequence thereof two senior idle employes, extra in preference, shall be allowed a day's pay for work denied at each, Wyoming Storage and Kingston Yard. The records to be jointly checked to determine the payees.

CLAIM NO. 5

Carrier violated the Telegraphers' Agreement when and because on

November 3, 1950 it required or permitted (1) a yardmaster at Kingston Yard, a location where an operator-clerk position had been abolished, to copy train No. 1734's consist from the conductor of that train from Hanover Yard and, also, copy Extra 358's consist from Conductor Finan at Barlows, a location adjacent to the Plymouth Station where an operator-clerk was employed; (2) conductor of train 1734 to transmit his consist to the yardmaster at Kingston Yard from Hanover Yard; and (3) Conductor Finan on Extra 358 to transmit his consist to the yardmaster at Kingston Yard from Barlow, a location adjacent to Plymouth where an operator was on duty; in consequence thereof three senior idle employes, extra in preference, shall be allowed a day's pay, one at each, Kingston Yard, Hanover Yard and Barlow.

CLAIM NO. 6

The Carrier violated the Telegraphers' Agreement when and because on November 24, 1950 it permitted or required the Conductor in charge of train NS-38 at Berwick Yard to transmit to the yardmaster at Kingston Yard a consist of his train; in consequence thereof a day's pay shall be allowed to the two senior idle employes, extra in preference, one day at each Kingston Yard and Berwick Yard. A joint check of the records to be made to determine the payees.

CLAIM NO. 7

The Carrier violated the rules of the Telegraphers' Agreement when and because on December 5, 1950 it required or permitted the Conductor in charge of train NS-38 at Berwick Yard to transmit to the yardmaster at Kingston Yard a consist of his train; in consequence thereof a day's pay shall be allowed to two senior idle employes, extra in preference, one day at each Kingston Yard and Berwick Yard. A joint check of the records to be made to determine the payees.

CLAIM NO. 8

The Carrier violated the Telegraphers' Agreement when and because on February 6, 1951 it required or permitted the conductor in charge of train NS-38 at Berwick Yard to transmit to a yardmaster at Kingston Yard a consist of his train; in consequence thereof a day's pay shall be allowed to two senior idle employes, extra in preference, one day at each Kingston Yard and Berwick Yard. A joint check of the records to be made to determine the payees.

CLAIM NO. 9

The Carrier violated the provisions of the Telegraphers' Agreement when and because on September 9, 1952 it permitted or required the yardmaster at Kingston Yard to receive messages from the dispatcher at Scranton; in consequence thereof idle extra employe Felarsky shall be allowed a day's pay for work denied at Kingston Yard.

CLAIM NO. 10

Carrier violated the Telegraphers' Agreement when and because on October 22, 1953 it required or permitted a yardmaster at Kingston Yard to copy train 1734's consist from an operator-clerk at Bloomsburg at a time the operator-clerk at Kingston Yard was off duty; in consequence thereof operator-clerk G. J. Capone at Kingston Yard shall be allowed a 'call' payment in the amount of \$6.25.

CLAIM NO. 11

The Carrier violated the Telegraphers' Agreement when and because it required or permitted an employe outside of the Telegraphers' Agreement at Kingston Yard to transmit a report designated as Form T-93 (a mine report) to an operator-clerk at Scranton outside of the operator-clerk's assigned hours at Kingston Yard, each work day February 22, 1943, to November 8, 1946 on which date the transmissions were restored or assigned to the operator-clerk at Kingston Yard; in consequence thereof the incumbent of the operator-clerk position at Kingston Yard, on a day-to-day basis shall be allowed a 'call' payment.

OPINION OF BOARD:

Claim 11 will be dismissed due to the Organization's undue delay in progressing it to final adjudication. This claim was denied by Carrier's Chief Operating Officer in April 1943. Subsequent discussions were held between the parties at the Organization's request but no settlement was reached. The fact of these subsequent discussions does not excuse the great lapse of time that has occurred in this instance, however.

The remaining claims involve the transmission and/or receipt of consists and other messages or reports by employees not covered by the subject Agreement. This has been a practice of long standing on the Carrier's property. The Agreement does not define this work as exclusively reserved to telegraph service employees.

AWARD:

Claims 1 through 10 denied. Claim 11 dismissed.

/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 8, 1959