

SPECIAL BOARD OF ADJUSTMENT NO. 266

406-3

THE ORDER OF RAILROAD TELEGRAPHERS

vs.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

AWARD NO. 85
CASE NO. 41
Sub 2312-TE-9700
243/3-199-3
(24-56)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on The Delaware, Lackawanna & Western Railroad, that:

- (1) The Carrier violated the Agreement between the parties at Chadwick, N.Y., when at 9:40 P.M., June 13, 1956, it required or permitted an employee not covered by said agreement to transmit a message by telephone to Binghamton, N.Y., outside the assigned hours of the Agent-Operator at this station.
- (2) The Carrier shall, because of such violation, compensate the incumbent of the Agent-Operator's position at Chadwick, N.Y., a call, two hours, at the time and one-half rate (\$6.22) of the position occupied.

OPINION OF BOARD:

There is a conflict in the record concerning the points between which the disputed message was sent, and concerning the person to whom the message was directed. The issue raised by the subject claim is clear, however. An Assistant Signal Maintainer was instructed to investigate and correct the reported failure of a signal on the Carrier's right of way. After performing the necessary work in this respect, he reported to a Dispatcher by wayside telephone that the signal was in working order. The Organization's contention is that the Carrier was required to transmit this message through an Operator covered by the subject Agreement.

The evidence discloses that the action here complained of represents a practice of many years standing. There is no agreement provision which expressly reserves this type of communication to telegraph service employees. A denial award is warranted.

AWARD:

Claim denied.

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

Dissenting
W. I. Christopher, Employee Member

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

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