

AWARD NO. 29
CASE NO. 29

SPECIAL BOARD OF ADJUSTMENT NO. 306

THE ORDER OF RAILROAD TELEGRAPHERS

VS.

THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim of the General Committee of the Order of Railroad Telegraphers on the New York, New Haven & Hartford Railroad that:

1. Carrier violated the Agreement between the parties, commencing May 11, 1959, when it permitted or required employes outside the scope of Agreement to perform telephone block operator work at Forest Hills, Massachusetts.
2. Mr. T. Tracy, regularly assigned agent-operator, Forest Hills, Massachusetts, also Messrs. W. Shanahan, P. Amalfitano or other extra employes who, on occasion, perform service at Forest Hills, shall be compensated in accordance with the call or overtime rules, Articles 6 and 7 of the prevailing Agreement, for each day, commencing May 11, 1959, that employes other than those under the terms of the Telegraphers' Agreement perform service covered by this agreement at Forest Hills.
3. This claim shall continue for each and every day commencing May 11, 1959 that the violative practice occurs until corrected."

FINDINGS:

The only difference between this case and Case No. 10, previously decided by this Board, is that there no telegraphic position then existed at the point involved, while here the acts complained of occurred outside the assigned hours of the agent at the point involved.

Award 6800 of the Third Division, N.R.A.B., in a case involving these parties held that on this property the assigned operator was entitled to a call in such cases. The carrier relies upon Award 8133 which held "that on the dates and during the hours indicated, the work involved had never been performed by telegraphers" and thus was not compensable. Here it is shown that prior to 1947 operators were employed around the clock in a signal station at Forest Hills, so Award 8133 is not controlling.

AWARD:

Claim sustained.

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/s/ Dudley E. Whiting

DUDLEY E. WHITING, REFEREE

/s/ Russell J. Woodman
RUSSELL J. WOODMAN, Employe Member

/s/ J. J. Duffy
J. J. DUFFY, Carrier Member

DATED: June 13, 1961.